रजिस्ट्री सं० डी० 222

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सं० 3] नई दिल्ली, शनिवार, जनवरी 15, 1972/पौष 25, 1893

No. 3] NEW DELHI, SATURDAY, JANUARY 15, 1972/ PAUSA 25, 1893

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़कर) केन्द्रीय प्राधिकरणों द्वारा जारी किये गए विधिक आदेश और अधिसूचनाएं ।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories)

MINISTRY OF FOREIGN TRADE

New Delhi, the 5th January 1972

S.O. 302.—In exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby rescinds the notification of the Government of India, in the Ministry of Foreign Trade, No. S.O. 5371, dated the 8th December, 1971, defining Carpet Backing Cloth for the purposes of subjecting jute products to quality control and inspection prior to export.

[No. 60(5)/70-EIEP.]

विदेश व्यापार मंत्रालय

नई दिल्ली, 5 जनवरी 1972

का० आ० 302.—निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार भारत सरकार के विदेश व्यापार मंत्रालय की अधिसूचना सं० का०आ० 5371, तारीख 8 दिसम्बर, 1971 को जिसमें निर्यात से पूर्व पटसन उत्पादों को क्वालिटी नियंत्रण तथा निरीक्षण अन्तर्गत रखने के प्रयोजन के लिये कालीन के पीछे लगाने के कपड़े की परिभाषा की गई थी, विखंडित करती है ।

[सं० 60(5)/70-ई०आई०ई०पी०]

S.O. 303.—In exercise of the powers conferred by section 17 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby makes the following rules further to amend Export of Jute Products (Quality Control and Inspection) Rules, 1970, namely:—

1. (1) These rules may be called the Export of Jute Products (Quality Control and Inspection) amendment Rules, 1972.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Export of Jute Products (Quality Control and Inspection) rules, 1970, in rule 2, in clause (d) for item (iv), the following item shall be substituted, namely:—

'(iv) "Carpet Backing Cloth", that is, broad-loom hessian of different constructions weighing from 6.0 oz. per sq. yard (195.3 gm. per sq. metre) with the width above 104" (264.2)."

[No. 60(5)/70-ELEP.]

का० आ० 303.—निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार जूट उत्पाद निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1970 में संशोधन करने के लिए निम्नलिखित नियम एतद्द्वारा बनाती है अर्थात् :—

1. (1) इन नियमों का नाम जूट उत्पाद निर्यात (क्वालिटी नियंत्रण और निरीक्षण) संशोधन नियम, 1972 होगा।

(2) ये शासकीय राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. जूट उत्पाद निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1970 में नियम 2 में खण्ड (घ) में, मद (4) के स्थान पर, निम्नलिखित मद प्रतिस्थापित की जाएगी, अर्थात् :—

(4) 'कालीन के पीछे लगाने का कपड़ा' अर्थात भिन्न भिन्न संरचनाओं का ब्राड लूम हैसियन जिसका 104", (264.2 से०मी०) से अधिक चौड़ाई पर भार 6.0 औंस प्रतिवर्ग गज (195.3 ग्राम प्रति वर्ग मीटर) हो।

[सं० 60(5)/70 ई०-आई० ई०पी०]

S.O. 304.—In exercise of the powers conferred by Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Foreign Trade No. S.O. 3397, dated the 14th October, 1970, namely:—

In the explanation to the said notification, for item (iv), the following item shall be substituted namely:—

"(iv) "Carpet Backing Cloth", that is, broad-loom hessian of different contructions weighing from 6.0 oz. per sq. yard (195.3 gm. per sq. metre) with the width above 104" (264.2 cm.)."

[No. 60(5)/70-EIEP.]

M. K. B. BHATNAGAR,
Dy. Dir. (Export Promotion).

का० आ० 304.—निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1993 का 22) की धारा 7 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार भारत सरकार के विदेश व्यापार मंत्रालय की अधिसूचना सं० का०आ० 3397, तारीख 14 अक्तूबर, 1970 में निम्नलिखित संशोधन एतद्द्वारा करती है, अर्थात् :—

उक्त अधिसूचना के स्पष्टीकरण में, मद 4 के स्थान पर निम्नलिखित मद प्रतिस्थापित की जाएगी, अर्थात् :—

(4) कालीन के पीछे लगाने का कपड़ा' अर्थात् भिन्न भिन्न संरचनाओं का ब्राड लूम हैसियन जिसका 104" (294.2 से०मी०) से अधिक चौड़ाई पर भार 9.0 औंस प्रतिवर्ग गज (195.3 ग्राम प्रति वर्ग मीटर) हो।

[सं० 60(5)/70—ई० आई० ई० पी०]

एम० के० बी० भटनागर,
उप निदेशक (निर्यात प्रोन्नति)।

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

ORDER

STAMPS

New Delhi, the 15th January 1972

S.O. 305.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which policies of insurance issued under:—

(a) the Emergency Risks (Goods) Insurance Act, 1971 (50 of 1971), and

(b) the Emergency Risks (Undertakings) Insurance Act, 1971 (51 of 1971).

are chargeable under the Indian Stamp Act, 1899.

[No. 3/72-Stamps/F. No. 471/53/71-Cus. VII.]

K. SANKARARAMAN, Under Secy.

वित्त मंत्रालय

(राजस्व और बीमा विभाग)

आदेश

स्टाम्प

नई दिल्ली, 15 जनवरी, 1972

एस० ओ० 305.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा छूट देती है जिससे—

(क) आपात जोखिम (माल) बीमा अधिनियम, 1971 (1971 का 50) और

(ख) आपात जोखिम (उपक्रम) बीमा अधिनियम, (1971 का 51), के अधीन जारी की गई

बीमा की पालिसियां स्टाम्प भारतीय अधिनियम, 1899 के अधीन प्रभार्य हैं।

[सं० 3/72—स्टाम्प/फा० सं० 471/53/71—सी०शु०—7]

के० शंकररामन, अवर सचिव।

CENTRAL BOARD OF EXCISE AND CUSTOMS

CUSTOMS

New Delhi, the 15th January 1972

S.O. 306.—In exercise of the powers conferred by section 9 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby declares Kanpur in the State of Uttar Pradesh to be a warehousing station.

[No. 14/72-Customs/F. No. 473/109/71-Cus. VII.]

केन्द्रीय उत्पाद-शुल्क और सीमा-शुल्क बोर्ड

सीमा-शुल्क

नई दिल्ली, 15 जनवरी, 1972

एस० ओ० 306.—सीमा-शुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय उत्पाद-शुल्क और सीमा-शुल्क बोर्ड, उत्तर प्रदेश राज्य में कानपुर को भाण्डागार स्टेशन, एतद्द्वारा घोषित करता है ।

[सं० 14/72-सीमा शुल्क/फा० सं० 473/109/71-सी०शु०-7]

S.O. 307.—In exercise of the powers conferred by section 9 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby declares *Patna and Mughalsarai* in the State of Bihar to be warehousing stations.

[No. 15/72-Customs/F. No. 473/109/71-Cus. VII.]

एस० ओ० 307.—सीमा-शुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय उत्पाद-शुल्क और सीमा-शुल्क बोर्ड, बिहार राज्य में पटना और मुगलसराय को भाण्डागार स्टेशन, एतद्द्वारा घोषित करता है ।

[सं० 15/72-सीमा-शुल्क/फा० सं० 473/109/71-सी०शु०-7]

S.O. 308.—In exercise of the powers conferred by section 9 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby declares *Allahabad* in the State of Uttar Pradesh to be a warehousing station.

[No. 16/72-Customs/F. No. 473/109/71-Cus. VII.]

एस० ओ० 308.—सीमा-शुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय उत्पाद-शुल्क और सीमा-शुल्क बोर्ड, उत्तर प्रदेश राज्य में इलाहाबाद को भाण्डागार स्टेशन, एतद्द्वारा घोषित करता है ।

[सं० 16/72-सीमा-शुल्क/फा०सं० 473/109/71-सी०शु०-7]

S.O. 309.—In exercise of the powers conferred by section 9 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby declares Tatisilwai in Ranchi District in the State of Bihar to be a warehousing station.

[No. 17/72-Customs/F. No. 473/111/71-Cus. VII.]

K. SANKARARAMAN, Under Secy.

एस० ओ० 309.—सीमा-शुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय उत्पाद-शुल्क और सीमा-शुल्क बोर्ड, बिहार राज्य के रांची जिले में तटीसिलवई को भाण्डागार स्टेशन, एतद्द्वारा घोषित करता है ।

[सं० 17/72-सीमा शुल्क/फा० सं० 473/111/71-सी०शु०-7]

के० शंकरारमन, अवर सचिव ।

MINISTRY OF LABOUR AND REHABILITATION

(Department of Labour and Employment

New Delhi, the 30th December, 1971

S.O. 310.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award Part-V of the Central Government Industrial Tribunal (No. 2), Bombay, in the industrial dispute between the employers in relation to Messrs. Janardhan Zarapcar, Raising Contractors, Pissurulem Mines, Mapuca, Goa and their workmen, which was received by the Central Government on the 24th December, 1971.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

REFERENCE No. CGIT-2/6 OF 1969

Employees in relation to Shri Manohar Hiru Naik Parulekar Mine Owner, Pissurulem Mines Mapuca, Goa.

AND

Their workmen.

PRESENT:

Shri N. K. Vani—Presiding Officer.

APPEARANCES:

For the Employees—Shri G. U. Bhore, Advocate.

For the Workmen—Shri George Vaz, General Secretary, Goa Mining Labour Welfare Union, Goa.

INDUSTRY: Iron Ore Mines. STATE: Goa, Daman and Diu.

Bombay, dated the 9th December, 1971

AWARD PART V

By order No. 24/9/68-LRI dated 1st March, 1969 the Central Government in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred to this Tribunal for adjudication an industrial dispute existing between the employers specified in Schedule I, in relation to Shri Manohar Hiru Naik Parulekar, Mine Owner, Pissurulem Mine, Mapuca, Goa, and their workmen in respect of the matters specified in the Schedule II as mentioned below:—

SCHEDULE I

"(1) Sri Manohar Hiru Naik, Parulekar, Owner Pissurulem Mine, Mapuca, Goa.

(2) Messrs Janardhan Zarapcar, Raising Contractors, Pissurulem Mines, Mapuca, Goa."

SCHEDULE II

"1. Whether the action of the management of Shri Manohar Hiru Naik Parulekar, Owner Pissurulem Mine and Messrs Janardhan Zarapcar, Raising Contractors of Pissurulem Mines in not implementing the final recommendations of the Central Wage Board for Iron Ore Mining Industry as accepted by the Government of India in respect of the workmen employed in their Iron Ore Mines with effect from the 1st January, 1967, is justified? If not, to what relief are the workmen entitled?

2. Whether the action of the management of Shri Manohar Hiru Naik Parulekar, Owner of Pissurulem Mine in retrenching the following workmen *vide* notice dated the 1st December, 1968 is justified?

1. Chandra Gaunco.
2. Shrikrishna Morajkar.

3. Appna Karne.
4. Nanashib Dodznani.
5. Michael D'Souza.

If not, to what relief are the workmen entitled?

3. Whether the action of the management of Messrs. Janardhan Zarapcar raising contractor of Pissurulem Mine in terminating the services of the following workmen *vide* notice dated the 1st December, 1968 is justified?

1. Harishchandra Mayakar.
2. Dinu Marathi Jadhav.
3. Hussen M. Mulla.
4. Mutta Swami.
5. Prabhakar Bhagat.
6. Shanu Amonkar.
7. Viniak Bhagat.
8. Kalappa Maratho.

If not, to what relief are the workmen entitled?

4. Whether the action of Messrs Janardhan Zarapcar raising contractor of Pissurulem Mine in terminating the services of the following workmen in their notice dated 2nd January, 1969 is justified?

1. Uttam Narayan Kamath.
2. Jayaram P. Shirodkar.
3. Bhale Kamath.
4. Yeswant Herjan.
5. Narayan Setkhor.
6. Anant Nirankal.
7. Anant Goakar.
8. Ramesh Viagonkar.
9. Prakash V. Naik.
10. Prabhakar Virdikar.
11. Laxman Pissurulekar.
12. Sitaram Powar.
13. Babli B. Naik.
14. Antu Powar.

If not, to what relief are the workmen entitled?

5. Whether the action of Messrs Janardhan Zarapcar raising contractor Pissurulem Mine in terminating the services of Shri Manohar Tukaram Tari with effect from the 20th December, 1968 is justified? If not, to what relief is the workmen entitled?"

2. Out of 5 issues referred to this Tribunal as mentioned in Schedule II above, issue No. I relates to the dispute between Shri Manohar Hiru Naik Parulekar, Mine Owner, Pissurulem Mine and his workmen and M/s. Janardhan Zarapcar, Raising Contractor and their employees.

3. As regards the dispute regarding the action of the management of Shri Manohar Hiru Naik Parulekar, Owner Pissurulem Mines is not implementing the final recommendations of the Central Wage Board for Iron Ore Mining Industry as accepted by the Government of India in respect of the workmen employed in his Iron Ore Mines with effect from 1st January, 1967, they have effected a settlement Ex. 120|EW. In view of this settlement, it is not necessary to refer to the settlement filed by Shri Manohar Hiru Naik Parulekar and his workmen in connection with this dispute.

4. Shri Bhore, advocate for the employer and Shri George Vaz for the workmen admit that persons mentioned below were in the service of Shri Manohar Hiru Naik Parulekar and that they have left his service on the date shown against each:—

Name	Date of leaving	Last Salary drawn
		(Rs.)
Shri D. S. Kasalkar	In service	150/-
Shri N. Freitas	1-1-68	100/-
Shri S. S. Moyenckar	21-10-68	100/-
Shri Gurdas Naik	20-11-68	60/-
Shri Chandra Gowas	1-12-68	3·07 p.d.
Shri Shrikrishna Moraskar	1-12-68	5·07 p.d.
Shri Shrikrishna Kovelkar	8-12-67	100/-
Shri Nanasab Duodmani	1-12-68	3·50 p.d.
Appanca Kurne	1-12-68	2·00 p.d.
Michael D'Souza	1-12-68	4·00 p.d.

5. The settlement dated 26th November, 1971 effected by the parties and signed by the representatives of the parties produced at Ex. 120/EW is as follows:—

"May it please your honour,

It is agreed by consent of both the parties in the above dispute that M/s. Manohar Hiru Naik Parulekar will implement the Central Wage Board for Iron Ore Mining Industry as accepted by the Government of India to his employees as given in the annexure and work out the fitment of these employees to the Wage Board Grade and Scales—Basic, D.A. and V.D.A. by mutual consent.

In view of this consent agreement between the parties it is prayed that the Reference in issue No. 1 in relation to M/s. Manohar Hiru Naik Parulekar and their employees may be treated as settled and an Award may be given accordingly."

6. The employees of Shri Manohar Hiru Naik Parulekar were demanding that the recommendations of the Central Wage Board for Iron Ore Industry as accepted by the Government of India should be made applicable to them with effect from 1st January, 1967 and that all benefits be given to them. They were contending that Shri Manohar Hiru Naik Parulekar was not justified in not implementing the recommendations of the Central Wage Board for Iron Ore Industry as accepted by the Government of India in respect of his Iron Ore Mines with effect from 1st January, 1967. As Shri Manohar Hiru Naik Parulekar has now agreed to extend the benefits of these recommendations as accepted by the Government of India i.e., with effect from 1st January, 1967 to his employees it is clear that his action in not implementing these recommendations earlier was not justified and that his employees were entitled to get these benefits of the recommendations.

7. As the employees of Shri Manohar Hiru Naik Parulekar are getting these benefits by the compromise, the said compromise is in the interest of the employees. It is fair and just. I therefore accept the same and pass the following order:—

ORDER

(i) It is hereby declared that the action of the management of Shri Manohar Hiru Naik Parulekar, Owner Pissurulem Mine, in not implementing the final recommendations of the Central Wage Board for Iron Ore Mining Industry as accepted by the Government of India in respect of the workmen employed in his Iron Ore Mines with effect from 1st January, 1967 is not justified and that his employees are entitled to the benefits of the final recommendations of the Central Wage Board for Iron Ore Mining Industry as accepted by the Government of India with effect from 1st January, 1967.

(ii) Award Part V in terms of settlement Ex. 120/EW is made.

(iii) Settlement Ex. 120/EW is to form part of this Award.

(iv) No order as to costs.

(Sd.) N. K. VANI,
Presiding Officer,
Central Government Industrial Tribunal No. 2, Bombay.

Ex. 120/EW.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 AT BOMBAY

REFERENCE: CGIT 2/6 OF 1969

Between the Management of Messrs Manohar Hiru Naik Parulekar, Mine Owner and M/s. Janardhan Zarapcar, Raising Contractor

AND

Their Workmen.

Issue No. 1 in relation to the Employer M/s. Manohar Hiru Naik Parulecar, Mine Owner, Pissurulem Mine and his workmen.

May it please Your Honour,

It is agreed by consent of both the parties in the above dispute that M/s. Manohar Hiru Naik Parulekar will implement the Central Wage Board for Iron Ore Mining Industry as accepted by the Government of India to his employees as given in the annexure and work out the fitment of these employees to the Wage Board Grade and Scale—Basic, DA and VDA by mutual consent.

In view of this consent agreement between the parties it is prayed that the Reference in Issue No. 1 in relation to M/s. Manohar Hiru Naik Parulekar and their employees may be treated as settled and an Award may be given accordingly.

Dated this 26th November 1971.

Sd/- Sd/- MANOHAR HIRU NAIK PARULEKAR,
Adv. for Employer PARULKAR,
M. H. N. Parulekar *For* the Employer—
Mine Owner

26-1-71 26-11-71.

(Sd.) GEORGE VAZ
For the workmen

ANNEXURE:

Name	Date of leaving	Last Salary drawn
D. S. Kasallar	In service	Rs. 150 -
N. Freits	1-4-68	Rs. 100/-
S. S. Moyenkar	21-10-68	Rs. 100/-
Gurudas Naik	28-11-68	Rs. 60/-
Chandra Gowas	1-12-68	Rs. 3.07 p.d.
Shrikrishna Morajkar	1-12-68	Rs. 3.07 p.d.
Nabisab Dhodmani	1-12-68	Rs. 3.50 p.d.
Shrikrishna Navelkar	8-12-68	Rs. 100/-
Appna Kurne	1-12-1968	Rs. 2.00 p.d.
Michael D'Souza	1-12-1968	Rs. 4.00 p.d.

Sd/- 26/11

Adv. for M. H. N. Parulekar

Sd/- Manohar Hiru Naik Parulekar

Sd/- George Vaz

[No. 24/9/69-LR-IV.]

S.O. 311.—In pursuance of section 17 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby publishes the following award of Shri O. Venkatachalam, Chief Labour Commissioner (Central), New Delhi Arbitrator, in the industrial dispute between the employers in relation to the management of Western Kajora Colliery (Private) Limited, Post Office Raniganj, District Burdwan and their workmen, which was received by the Central Government on the 27th December, 1971.

In the matter of arbitration under Section 10A of the Industrial Disputes Act, 1947, in the industrial dispute between the management of M/s. Western Kajora Collieries Private Ltd., P.O. Raniganj, district Burdwan, and their workmen.

PRESENT:

Shri O. Venkatachalam, Chief Labour Commissioner (Central) and Arbitrator.

Representing the employer.—Shri Vijay Kumar Bhuwalka, Director.

Representing the workmen.—Shri Sunil Sen.—Organising Secretary, Colliery Mazdoor Sabha, Asansol.

AWARD

New Delhi, the 24th December 1971

No. Con. III/186(2)71.

By an agreement dated 17th March, 1971, the management of Western Kajora Colliery P.O. Raniganj and their workmen represented by the Colliery Mazdoor Sabha agree to refer the following industrial dispute for my arbitration under Section 10A of the Industrial Disputes Act, 1947:—

"Keeping in view the recommendations of the Central Wage Board for the Coal Mining Industry as accepted by the Government of India in their Resolution No. WB-16(5)/66 dated 21st July, 1967, as well as the financial position of Western Kajora Colliery of M/s. Western Kajora Collieries (P) Ltd., P.O. Raniganj, Distt: Burdwan (West Bengal) what should be the rate of D.A. payable to the workmen employed at Western Kajora Colliery with effect from 1st April, 1970, and 1st October, 1970?"

The parties agreed that my decision as Arbitrator shall be binding on them. They stipulated that my Award shall be made within a period of 130 days or within such further time as the parties might agree in writing. The agreement was published in the Gazette of India as required by Section 10A of the Industrial Disputes Act, *vide* Ministry of Labour and Rehabilitation (Department of Labour and Employment) Notification No. L/1913/5/71-LRII dated 7th April, 1971. About 400 workmen were involved in this dispute.

2. After calling for the statements of the case from both the parties and their comments on each other's statement, I took up the case for hearing at Calcutta on 18th June, 1971. At this hearing the parties stated that they were carrying on mutual discussions between themselves with a view to arriving at an amicable settlement of the dispute and they were quite hopeful of the result of their efforts. They, therefore, pleaded for adjournment of the case for a month which was granted. At that hearing the parties extended the time limit for making my award by a period of two months beyond the time-limit already fixed in the arbitration agreement.

3. The case was taken up for hearing again on 3rd August, 1971, at Calcutta. At this hearing the management submitted statements of particulars showing a net loss of Rs. 3.57 per ton during 1969-70 and a still higher loss of Rs. 11.30 per ton during the next 7 months from September, 1970, to March, 1971. According to the audited balance sheet submitted by them, they incurred a net loss of Rs. 1,29,711.21 during the year 1968-69.

The statement of the case submitted by them explained the various disadvantages of working this Colliery. In order to compare the position regarding payment of V.D.A. at some of the collieries in the area with similar size of operations, working conditions, etc., as the Western Kajora Colliery, Shri Sunil Sen of the Colliery Mazdoor Sabha agreed to furnish the relevant particulars together with dates from which and the rates at which the different collieries have been paying the V.D.A. The case was accordingly adjourned and taken up for further hearing on 10th September, 1971. But Shri Sunil Sen could not furnish the relevant particulars at this hearing. He promised to furnish the required particulars at the next hearing of the case. However, at the hearing on 10th September, 1971, the management's statement together with the enclosures thereto were gone through and fully discussed. In the light of these discussion the Director of the Company agreed to submit at the next hearing his Accountant's affidavit vouching for the correctness of the management's statements. Likewise the Union's representative Shri Sunil Sen agreed to furnish to the Arbitrator a copy of the agreement reached between the parties on 23rd December, 1970. At the request of the parties the hearing was, therefore, adjourned to 8th October, 1971. But before this date both the parties sought for postponement of the hearing by a fortnight. During all this time the parties carried on mutual discussions in order to arrive at a settlement of the dispute. They also extended the time-limit for giving my award till 31st December, 1971.

4. The case was taken up for final hearing at Calcutta on 23rd December, 1971. At this hearing the parties stated that as a result of the prolonged discussions held mutually between them, the management have already enhanced the rate of V.D.A. payable to the workmen of the colliery from Rs. 1.29 to Rs. 1.53 per day with effect from 29th November, 1971, and that further discussions between the parties for a full settlement of the dispute were still in progress. They also expressed the hope that they would be able to arrive at a mutually acceptable compromise. They have therefore withdrawn their reference from my arbitration with a further request that I might give a "no dispute" I accordingly make a "no dispute" award and award treat this case as closed.

(Sd.) O. VENKATACHALAM,
Chief Labour Commissioner (Central)
and Arbitrator.

[No. L/1913/5/71-LRII.]

New Delhi, the 31st December 1971

S.O. 312.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Industrial Tribunal, Calicut in the industrial dispute between the employers in relation to the management of Kannapuram China Clay Mines, Post Office Cherukknnu, District Cannanore (Kerala) and their workmen, which was received by the Central Government on the 27th December, 1971.

BEFORE THE COURT OF THE INDUSTRIAL TRIBUNAL (CENTRAL), KOZHIKODE.

(Tuesday, the 21st day of December, 1971)

PRESENT :

Sri R. K. Venu Nayar, B.A., B.L.,

INDUSTRIAL DISPUTE NO. 1/71 (CENTRAL)

BETWEEN

The management of Kannapuram China Clay Mines, P.O. Cherukunnu, District Cannanore (Kerala).

AND

Their workmen

Represented by the Secretary, Hindustan China Clay Labour Union, P.O. Vengara, (Via) Payangadi, Cannanore District, Kerala.

REPRESENTATION :

Sri M. P. Govindan Nambiar,
Advocate, Tellicherry—*For Management.*

AWARD

This is an industrial dispute referred to this Tribunal by the Government of India as per order No. L-29011/18/71-LR-IV dated Nil for adjudication. The issues referred are the following:

"Whether the demands of the Hindustan China Clay Labour Union, Post Office, Vengara, (Via) Payangadi, Cannanore District, Kerala State, in respect of the following matters are justified? If so, to what relief are the workmen entitled?

(i) Wage increase.

(ii) Provision of Attendance cards and Tokens to workmen.

(iii) Free Supply of food from the canteen.".

2. Notice was issued to both parties. They filed their statement, reply statement and rejoinder. There after both parties wanted time to adduce evidence and that was granted.

3. On 21st December, 1971, the parties to the dispute filed a joint statement signed by both parties. It is seen that they have settled the dispute as per the terms and conditions contained in the joint statement. It is also stated that they want an award to be passed in terms of the settlement. The prayer is allowed and an award in terms of the settlement shown below in the Annexure is passed. This award shall come into force on the expiry of 30 days after its publication in the Government Gazette.

CALICUT,
21-12-1971.

(Sd.) R. K. VENU NAYAR,
Central Government Industrial Tribunal,
Calicut.

ANNEXURE

In the Court of the Central Government Industrial Tribunal, Calicut.

I. D. No. 1971 (CENTRAL)

BETWEEN:

The Management of the Kannapuram China Clay Mines.

AND

The Hindustan China Clay Labour Union, Vengara-P.O.

The above dispute has been settled between the parties on the following terms and conditions:

1. The management agrees to pay all male workers Re. 1 per day as basic wage and Rs. 2.57 as dearness allowance per day.

2. The management agrees to pay to all the female workers 75 paise per day as basic wage and Rs. 1.93 per day dearness allowance.

3. Where any worker male or female, is actually in receipt of higher rates of wages than the rates of wages fixed under this agreement, he or she shall continue to get the benefit of the higher rates of wages so being paid.

4. All the workers will be given mid-day meal free of charges.

5. Attendance cards will be given by the management to all the workers.

6. The wage rates fixed under this agreement will be effective from 1st October, 1971, and the workers will be paid arrears of wages before 30th January, 1972.

It is prayed that an award may be passed in terms of the above.

Dated this December, 1971.

1. For Management of the Kannapuram China Clay Mines.

(Sd.) P. M. ANANDARAJAN
20-12-71.

2. Secretary, Hindustan China Clay Labour Union.

(Sd.) P. V. SREEDHARAN

(Sd.)
Advocate for the Management.

(Sd.) R. K. VENU NAYAR,
Industrial Tribunal, Calcutta.

[No. L-29011/18/71-LR-IV.]

New Delhi, the 3rd January, 1972

S.O. 313.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 3), Dhanbad, in the Industrial dispute between the employers in relation to the management of Bhagatdih Rise Area Colliery, Post Office Jharia, District Dhanbad, and their workmen, which was received by the Central Government on the 30th December, 1971.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 3) AT DHANBAD.

REFERENCE NO. 31OF 1970

PRESENT:

B. S. Tripathi, Presiding Officer.

PARTIES:

Employers in relation to the management of Bhuggatdih Rise Area Colliery.

Vs.

Their workmen.

APPEARANCES:

For employers—Sri T. P. Chaudhury, Advocate.

For workmen.—Sri S. Dasgupta, Secretary, Colliery Mazdoor Sangh.

INDUSTRY: Coal. STATE: Bihar.

Dhanbad, dated the 15th of December 1971

AWARD

1. The Central Government in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), being of the opinion that an industrial dispute exists between the employers in relation to the management of Bhuggatdih Rise Area Colliery, Post Office Jharia, District Dhanbad and their workmen in respect of the matters specified in the schedule annexed thereto, under order No. 2/60/70-LRII dated the 25th June, 1970 referred the dispute under section 10(1)(d) of the Industrial Disputes Act, 1947 to this Tribunal for adjudication. The Schedule is extracted below:

SCHEDULE

"Whether the management of Bhaggatdih Rise Area Colliery is justified in bringing a change with effect from the 27th February, 1970 in the existing facility for 14 days sick leave with full pay enjoyed by the monthly paid workmen into 30 days sick leave with half pay? If not, to what relief are they entitled?"

2. The reference was registered as reference No. 31 of 1970 and thereafter notices were issued to both the parties from this Tribunal for submission of written statement. The Manager of Bhaggatdih Rise Area Colliery filed written statement on 29th July, 1970 on behalf of the employers and on behalf of the workmen Colliery Mazdoor Sangh, represented by its Secretary, filed a separate written statement on 12th August, 1971.

3. According to the common case of both the parties the monthly paid workmen of the colliery in question were getting 14 days sick leave with full wages every year and subsequently the management changed the condition of service regarding sick leave to 30 days sick leave with half wages giving effect to it from 27th February, 1970, after observing all formalities as required under Section 9-A of Industrial Disputes Act, 1947. According to the case of the employers the Central Wage Board of Coal Mining Industry recommended 15 days sick leave with full wages or 30 days sick leave with half wages and made no distinction in respect of the same between the weekly paid and monthly paid employees and the management has implemented the recommendation of the wage Board for granting sick leave for 30 days with half pay. It is alleged that prior to this, the monthly paid staff were getting 14 days sick leave with full wages. As this was contrary to the recommendation of the Central Wage Board and at variance as to what the other workmen were getting, to maintain uniformity among the workmen, 30 days sick leave with half pay was introduced for all workers including the monthly paid workers. The allegation is that a notice in form 'E', as required under section 9-A of the Industrial Disputes Act, 1947, was issued introducing the said system with effect from 27th February, 1970 and this became legally binding on the workmen concerned. According to the employers the 30 days sick leave with half wages to the monthly paid staff, beside bringing uniformity among the workmen with respect to the sick leave, it will also be beneficial to the monthly paid employees who would require longer sick leave, because they will receive half wages for all the 30 days and as such the management of Bhaggatdih Rise Area Colliery was justified in bringing change in the existing facility of 14 days sick leave with full pay given to the monthly paid workmen.

4. The case of the workmen, as disclosed in their written statement, is to the effect that the Central Wage Board for Coal Mining Industry submitted its report on 11th February, 1967 and most of the recommendations of the Board including the recommendation regarding sick leave, were accepted by the Government of India as per its resolution dated 1st July, 1967, that one of the accepted recommendations of the said Wage Board was the provision of sick leave for 15 days with full wage or 30 days with half wage in a year for all persons employed in the Coal Mining Industry and for protecting the existing better facility, the Board recommended that if in any colliery there were provisions for sick leave more favourable than what is recommended by them, they shall be continued and that by an agreement with the Union, the management agreed to implement the accepted recommendations of Wage Board, including the recommendation regarding sick leave, with effect from 15th August, 1967. It is stated that prior to 15th August, 1967 the weekly paid workmen of the Colliery used to enjoy 14 days sick leave with half wages and the monthly paid staff were enjoying 14 days sick leave with full wages in a year and the management while implementing the recommendations of the Wage Board enhanced the sick leave with half wages for the weekly paid employees from 14 days to 30 days in a year,

but the quantum of sick leave in respect of the monthly paid staff was allowed to remain as before, since it was considered to be a better facility than sick leave with half wages. According to the workmen the monthly paid staff were paid 14 days sick leave with full wages as before, and not 15 days sick leave with full wages as recommended by the Wage Board, in spite of repeated representations from the monthly paid staff. The workmen state that for the reasons best known to the management, a notice in Form-E of the Industrial Disputes Rules was issued by the management on 2nd February, 1970 notifying its intention to alter the service conditions of the monthly paid staff in respect of sick leave, mentioning therein that the monthly paid staff would be entitled to sick leave with half wages for 30 days in a year with effect from 27th February, 1970 and as soon as the Union came to know of the same and saw that the alteration in the service condition was prejudicial to the interest of the monthly paid staff, represented before the management for withdrawal of the notice and the union further represented that to bring uniformity the management should introduce 15 days sick leave with full pay for weekly paid employees also. The negotiation with the management having failed, the union referred the matter to the A. L. C. (C), Dhanbad for conciliation as per its letter dated 9th February, 1970 but the conciliation proceeding ended with a failure report after which the present reference was made by the Government of India. According to the workmen, since the inception of the colliery the monthly paid staff have been enjoying the privilege of 14 days sick leave with full pay which is undoubtedly a more favourable facility than sick leave with half pay and the management acted without jurisdiction in changing the service condition unilaterally without the consent of the workmen concerned or without consulting the union.

5. On behalf of the workmen it is submitted that the change in the existing facility regarding sick leave in the manner aforesaid by the management is unjustified inasmuch as alteration of the said service condition is to the prejudice of the workmen, it has deprived the workmen of a better facility, for effecting the said change the management has acted with the motive of gain at the cost of the workmen and the change in the service condition amounts to punishment and victimisation. The prayer of the workmen accordingly is that the concerned workmen be allowed to get 15 days sick leave with full wages with effect from 27th February, 1970.

6. On behalf of the management the only witness examined is Sri S. S. Srivastava (MW-1), the Manager of Bhuggatdih Rise Area Colliery. No witness was examined on behalf of the workmen. On behalf of the management certain acknowledgement due receipts of registered letters issued, have been marked as exts and they are Exts. M-1 to M-5 and no other documents have been exhibited on their behalf. On behalf of the workmen, office copies of some letters, Exts. W-1 to W-4, and 2 sick leave registers Exts. W-5 and W-6, have been marked. All these documents have been taken into evidence on the admission of the opposite party. Reference to these documents will be made in course of discussion which will follow hereafter, if and when necessary.

7. The concerned workmen in the present dispute are the monthly paid workmen of Bhuggatdih Colliery of Bengal Nagpur Coal Company Limited, the dispute being sponsored by Colliery Mazdoor Sangh. It appears that the Agent of the said Colliery gave notice to the prescribed authorities including the Secretary, Colliery Mazdoor Sangh, in Form E under rule 34 of Industrial Disputes Rules (Central) (Vide Ext. W-2 dated 2nd February, 1970) in compliance with the provisions of Section 9-A of the Industrial Disputes Act for effecting change in the condition of service of the monthly paid workmen with request to sick leave the workmen are entitled to in a year and intimated further that the change would come into effect from 27th February, 1970. It is the admitted case of both the parties that prior to this change the monthly paid workmen were getting sick leave for 14 days with full pay in a year. By this change sick leave for 30 days with half wages, in lieu of the existing sick leave privilege, was introduced for these workmen. Sri S. Das Gupta, Secretary of Colliery Mazdoor Sangh then wrote to the Agent of the Colliery in question to withdraw the notice aforesaid saying that the change effected thereby would be prejudicial to the concerned workmen (vide letter of the Secretary dated 6th February, 1970 Ext. W-3). It was suggested in that letter that the quantum of sick leave for the concerned workmen should be 15 days with full wages in a year. The Secretary of the Colliery Mazdoor Sangh, on behalf of the workmen, also raised a dispute with respect to the proposed change in the sick leave for the monthly paid workmen before the Assistant Labour Commissioner (Central), Dhanbad (vide Ext. W-4 dated 9th February, 1970). Ext. W-1 dated 24th March, 1970 is the comment submitted by the Employers before the Assistant Labour Commissioner, Dhanbad to the dispute raised by the workmen. As amicable settlement between the parties could not be brought about, the conciliation ended in failure and a failure report was submitted to the Central Government by the Assistant Labour Commissioner, whereupon the present reference was made by the Central Government to this Tribunal.

8. It appears that in the year 1964 the Government of India had appointed a Central Wage Board for Coal Mining Industry to report on matters referred to the Board and the Board composed of the members representing the employers, the members representing the workmen and independent members, besides the Chairman. The Board submitted its report in 1967 on matters referred to them including the matter relating to sick leave, the workmen in the Coal Mining Industry are entitled to. The Government of India by their resolution dated the 21st of July, 1967 accepted the recommendations of the Board on matters mentioned in the resolution, including the matter relating to sick leave with a slight modification. The recommendation of the Board will appear in Paragraph 14(1) at page 127 of the "Report of the Central Wage Board for the Coal Mining Industry Vol. I (Government of India Publication)" which runs as follows:—

> "14. We have considered the submissions of the parties on this issue and we are of view that the existing facilities regarding paid sick leave require improvement. Taking into consideration all relevant factors and circumstances the Board makes the following recommendation:—
>
> (i) All workmen shall be entitled to 15 days sick leave in the year on full pay or 30 days in the year on half pay with a right to the workmen to accumulate sick leave for a period of 60 days and 120 days respectively, in the entire period of service ....."

The decision of the Government of India accepting the recommendations of the Wage Board on some matters as per resolution dated 21st July, 1967, referred to above, will appear in paragraph 4 of the resolution and item No. (h) in that paragraph relates to sick leave which shows that the Government of India accepted the recommendation regarding sick leave without the provision for accumulation. The Government of India in that resolution decided that the recommendation accepted by them would come into effect from 15th August, 1967. Thus the position regarding sick leave for the workmen of the Coal Mining Industry, according to the recommendation of the Wage Board, as accepted by the Government of India, comes to this that all

workmen shall be entitled to sick leave for 15 days in the year on full pay or 30 days in the year on half pay.

9. On behalf of the employers the submission is that the management has implemented the Wage Board recommendation and in implementation of the same they have introduced the system of 30 days sick leave with half wages, that this system is beneficial to the workmen who may require leave for a period longer than 15 days and that at the time of the introduction of this scheme with respect to monthly paid workmen the weekly paid workmen were being given sick leave for 30 days with half pay per year and for maintaining uniformity in sick leave for all workmen of the colliery, the system in question has been introduced. No other ground was taken or submitted at the time of argument. Admittedly prior to this change the monthly paid workmen were getting sick leave for 14 days with full pay in a year.

10. The submission on behalf of the workmen is that the changed system of sick leave amounts to punishment or victimisation of the workmen, that the sick leave with full pay is more beneficial than with half pay, that the management by the present new system has deprived the workmen of the benefits of the existing better facility and that in keeping with the wage Board recommendation, the monthly paid workmen should get the facility of 15 days sick leave with full pay in a year and for maintaining uniformity the management should give 15 days sick leave with full pay to the weekly paid workmen as well. No other point was urged before me.

11. There is nothing to show that the management made the above change in the sick leave being actuated with the motive of punishing or victimising the monthly paid workmen and I do not accept the contention of the workmen in this regard.

12. No doubt, if a workmen does not fall ill for more than 15 days, in a year, the sick leave with full pay is beneficial to him as against leave with half pay. There may be instances when a workmen may require sick leave for more than 15 days in a year. In that case it will be advantageous to the workmen to have leave for 30 days with half pay even. It may happen that in the early part of the year the workmen took sick leave for 15 days with full pay. He fell ill during the same year sometime later on. Then during the period of his illness in the later period the sick leave will be without pay causing great hardship to the concerned workman in the matter of even making arrangement for his treatment. If the workman will get leave with half pay during that period it will of course be some help towards his treatment etc. In this way sick leave with half pay for 30 days is beneficial to the workmen concerned. So it cannot be said in a general manner that sick leave with full pay for 15 days, as submitted by the workmen, or the sick leave with half pay for 30 days as submitted by the employers, is favourable to the workmen. Which kind of leave will be more favourable to a workman will depend upon the facts and circumstances in each case. The same reasoning will apply to meet the contention of the workmen that the existing facility of sick leave for 14 days with full pay in a year was a better facility to the workmen than the changed one i.e. sick leave for 30 days with half pay.

13. It is true, as has been held by their Lordships of Supreme Court in the case between Rai Bahadur Diwan Badri Das and Industrial Tribunal, Punjab, reported in 1962(2)L.L.J.366, that there should be similarity or uniformity of terms of service in the same industry existing in the same region as far as practicable. There is another aspect which requires consideration, which, in my opinion, is more to the point and important. According to the employers the change in the system of sick leave was made according to the recommendation of the Central Wage Board for Coal Mining Industry and accepted by the Government of India. I have already pointed out above that the recommendation of the Board approved by the Government of India regarding sick leave for the workmen is that all the workmen shall be entitled to 15 days sick leave with full pay in the year or 30 days sick leave with half pay in the year. It is apparent from the above that the employers, by the change made in the aforesaid condition in Service relating to sick leave, have implemented only one part of the accepted recommendation of the Wage Board, though they profess to have implemented it *in toto* and have no objection to implement the same. The accepted recommendation has to be taken as it is and according to that it is for the concerned workman to choose whether in a particular year he would like to have sick leave with half pay for 30 days or with full pay for 15 days. It being a case of entitlement, it is for the recepient, the concerned workman, to elect one out of two kinds of benefits, and it is not for the employers to elect for the workman. By the disputed change in the sick leave for the monthly paid workmen the employers have deprived the workmen their right of election in the matter under consideration. By adopting the proposed system the total want of uniformity in the matter of sick leave for all kinds of workmen will be avoided. If the recommendation of the Coal Wage Board is adopted as a whole it is not likely to cause hardship either to the employers or the employees. It will have the effect of making harmonious relationship between the labour and the management and also industrial peace without causing harm to either to management or labour having no adverse effect on production.

14. In view of the discussion made above, my finding is that the management of Bhuggatdih Rise Area Colliery is not justified in bringing a change with effect from 27th February, 1970 in the existing facility of 14 days sick leave with full pay enjoyed by the monthly paid workmen into 30 days sick leave with half pay.

15. The next question that arises for consideration is to what relief the monthly paid workmen are entitled. In view of the recommendation of the Wage Board which has been accepted by the Government of India, already said above, and in view of the fact that both the employers and the workmen accept the same and also in view of the relevant facts and circumstances, stated above, the concerned workmen will get relief to this extent that they shall be entitled to sick leave for 15 days with full pay or 30 days with half pay in a year with option to the workmen to avail of full pay or half pay sick leave in any year. Once the option is exercised in any year for sick leave with half pay or full pay, the workman concerned will not be allowed to change it during that year.

16. This is my award. Let it be submitted to the Central Government under Section 15 of the Industrial Disputes Act, 1947.

BHAWANI SANKAR TRIPATHI,
Presiding Officer.
Central Govt. Industrial Tribunal No. 3, Dhanbad.

[No. 2/60/70-LRII.]

New Delhi, the 5th January 1972

S.O. 314.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Industrial Tribunal, Rajasthan, Jaipur in the industrial dispute between the employers in relation to the management of Jaipur Udyog Limited Phalodi Quarry, Sawai Madhopur and their workmen which was received by the Central Government on the 29th December, 1971.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, RAJASTHAN, JAIPUR.

PRESENT:

Shri Gopal Narain Sharma, *Presiding Officer.*

CASE NO. CIT-9 OF 1969

REF.—*Government of India, Ministry of Labour & Employment Order No. 36(51)/68-LRI, dated 14th February, 1969.*

In the Matter of an Industrial Dispute.

BETWEEN

The Cement Works Karamchari Sangh, Sawai Madhopur.

AND

The Jaipur Udyog Limited, Sawai Madhopur.

Date of Award: *12th November, 1971.*

AWARD

The Central Government by its order dated 14th February, 1969 referred the following dispute between the employees in relation to the management of Jaipur Udyog Limited, Phalodi Quarry, Sawai Madhopur and their workmen to this Tribunal for adjudication:—

"Whether the action of the management of Phalodi Quarry, Sawaimadhopur in scoring out the name of their employee, Shri Pratapa from the rolls of the Company with effect from the 21st November, 1967 was legal and justified? If not, to what relief is he entitled?"

When the case came up for hearing today representatives of the parties filed a joint application stating that they have mutually settled the dispute out of Court and prayed for passing a no dispute award.

A no dispute award is passed accordingly. It may be submitted to the Government for publication.

(Sd.) GOPAL NARAIN SHARMA,
Presiding Officer,
Central Govt. Industrial Tribunal,
Rajasthan, Jaipur.

[No. 36(51)/68-LRI(LRIV).]

S.O. 315. In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Industrial Tribunal, Rajasthan, Jaipur in the industrial dispute between the employers in relation to the management of Jaipur Udyog Limited, Phalodi Quarry, Sawai Madhopur and their workmen, which was received by the Central Government on the 29th December, 1971.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, RAJASTHAN, JAIPUR.

PRESENT:

Shri Gopal Narain Sharma.

GUDGE

CASE NO. CIT-21 OF 1969

REF.—*Government of India, Ministry of Labour & Employment, New Delhi Order No. 36/37/69-LR-IV. dated 22nd October, 1969.*

In the Matter of an Industrial Disputes.

BETWEEN

The Cement Works Karamchari Sangh, Sawai Madhopur.

AND

The Jaipur Udyog Limited, Sawai Madhopur.

Date of Award: *12th November, 1971*

AWARD

The Central Government by its order dated 22nd October, 1969 referred the following dispute between the employees in relation to the management of Jaipur Udyog Limited, Phalodi Quarry, Sawai Madhopur and their workmen to this Tribunal for adjudication:—

"Whether the action of the management of Phalodi Quarry in scoring out the name of their employee, Shri Hanuman Prasad, Beldar, with effect from the 25th July, 1967 was legal and justified? If not, to what relief is the workman entitled?"

When the case came up for hearing today the representatives of the parties filed a joint application stating that they have mutually settled the dispute out of Court and prayed for passing a no dispute award.

A no dispute award is passed accordingly. It may be submitted to the Central Government for publication.

(Sd.) GOPAL NARAIN SHARMA,
Presiding Officer,
Central Government Industrial Tribunal, Rajasthan, Jaipur.

[No. 36(37)/69-LRIV.]

New Delhi, the 6th January 1972

S.O. 316.—In pursuance of section 17 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby publishes the following award of Shri O. Venkatachalam, Arbitrator in the Industrial Dispute between the employers in relation to the management of the Indian Iron and Steel Company, Dhanbad, and their workmen which was received by the Central Government on the 3rd January, 1972.

In the matter of arbitration under Section 10A of the I.D. Act, 1947, in the industrial dispute concerning the Chasnalla Colliery of M/s. Indian Iron and Steel Company Ltd., Dist., Dhanbad.

PRESENT:

Shri O. Venkatachalan.—Chief Labour Commissioner (Central) and Arbitrator

Representing the management—

1. Shri K. K. Paul.—Personnel Officer.
2. Shri T. P. Choudhury.—Advocate.

Representing the workmen—

Shri Pranab Chatterjee.—President.—Mine Mazdoor Union.

AWARD

No. Con. III/276(2)/71. Dated the 31st December, 1971.

By an agreement dated 2nd July, 1971, the management of the Chasnalla Colliery of M/s. Indian Iron and Steel Company Ltd., district Dhanbad and their workmen represented by the Mine Mazdoor Union, P.O. Sijua (Dhanbad) agreed to refer the following issues for my arbitration under Section 10A of the Industrial Disputes Act, 1947:—

(a) Whether in case of future vacancies in the Chasnalla Project of HSCO Ltd., the workmen named in the Annexure 'A' attached herewith will, in view of their length of service in Company's project, have preference over others;

(b) Whether the said workers will be legally entitled to any benefits for the period they remain unemployed? If so, what would be the benefits?

(c) Whether the workers who went on strike in the month of April, 1971, will be entitled to any

wages for the strike period? If so, what should be quantum thereof?

The aforesaid agreement was published in the Gazette of India as required by sub-Section (3) of Section 10A of the Industrial Disputes Act, vide Ministry of Labour and Rehabilitation (Deptt. of Labour and Employment) Notification No. L-2012/70/71-LRII dated 23rd August, 1971. The parties agreed that the decision of the Arbitrator shall be binding on them. About 897 workmen out of a total of 1234 workmen employed in the establishment were involved in this arbitration.

2. After calling for the statements of the case from both the parties as well as their comments on each other's statement. I took up the case for hearing at Calcutta on 8th October, 1971. At this hearing the statements submitted by the management and the union were gone through in detail and the relevant facts and points were discussed at some length. As a result of the discussions it was agreed, *inter alia*, that the management would furnish to the Arbitrator (with a copy to the Union) a statement of service particulars of the 108 workmen involved in the issues (a) and (b) together with the rates of wages paid to them during the different periods of employment *viz.*, shaft furnishing and work of general mazdoor (category II).

3. After receiving the relevant particulars from the management, the case was taken up for further hearing at Calcutta on 22nd November, 1971. While discussing the merits of the management's and Union's case on issue No. (a) of the terms of reference, the management stated that as on date all the concerned workmen (numbering 108) have been already absorbed in the regular vacancies of the colliery with the exception of two of them (Srl. No. 83 Shri Jaidayal Rai, Sinker and Srl. No. 97 Shri Md. Yusuf, Sinker). While accepting this position, Shri Chatterjee, on behalf of the Union, pointed out that another worker, Shri V. Upadhyay, Supervisor was offered the post of Mining Sirdar with a condition that he should vacate the Company's quarter occupied by him as Supervisor under the Cementation Co., Ltd., and later in the same capacity under M/s. IISCO Ltd., (for shaft furnishing). As a result of further discussion on these three cases the parties agreed to settle them also amicably before the next hearing. On issue No. (b) the parties agreed at the hearing on 22nd November, 1971, that the period of unemployment for this purpose would count from the date a worker was retrenched from the work of shaft furnishing by M/s. IISCO till the date he was re-employed in a regular vacancy in the Chasnalla Colliery and that on this basis the management would furnish at the next hearing a statement showing the exact period of such unemployment in respect of all the workers concerned. As regards issue No. (c), the strike in question was admitted by the parties to be illegal for want of proper notice and as such the Union agreed to substantiate at the next hearing its claim for any wages for the strike period despite the illegality of the strike by referring to the decided case law, if any. The next and final hearing of the case was accordingly agreed to be held at Calcutta on 20th December, 1971.

4. At the final hearing of the case at Calcutta on 23rd December, 1971, the management reported (and the same was confirmed by the union) that they have already re-employed all the workmen (with the exception of Shri V. Upadhyaya, Supervisor) named in Annexure 'A' to the arbitration agreement dated 2nd July, 1971, Shri Upadhyaya was drawing a salary of over Rs. 600 per month as Supervisor both under M/s. Cementation Co., Ltd., and M/s. Indian Iron and Steel Co. Ltd. The management have lately offered him the job of a Mining Sirdar on a salary of Rs 247 per month which is at the stage of efficiency bar in the Mining Sirdar's scale of Rs. 205—337, with the stipulation that he should vacate the quarter which he has all along been occupying as Supervisor inasmuch as a Mining Sirdar is not entitled to that quarter. Shri Upadhyaya has objected to this condition and declined the offer although he was otherwise willing to accept the job. The management were willing to promote him as an Overman as soon as he passes the prescribed test and qualifies himself for that post. I consider it rather a severe hardship for Shri Upadhyaya to be asked to vacate his quarter which he has been occupying for years without offering him alternative accommodation, particularly as he would suffer a substantial cut in his pay by taking up the alternative job now offered to him. While therefore confirming the offer of alternative job on a basic salary of Rs. 247 per month together with the promise of his promotion as Overman as soon as he qualifies for the same, I direct that Shri Upadhyaya should be allowed to continue to occupy his present quarter, until alternative accommodation appropriate to his grade as Mining Sirdar is offered to him. With this direction, the issue at item (a) of the terms of reference stands disposed of fully.

5. With regard to the issue at item (b) of the terms of reference, the management furnished to the arbitrator, with a copy to the union, on 23rd December, 1971 a statement showing the dates of employment of the individual workmen mentioned in Annexure 'A' to the arbitration agreement and the dates of their re-employment in the company together with the periods of their unemployment as agreed at the last hearing. It is seen from the statement that the periods of unemployment of individual workmen ranged from 'nil' to a maximum of 5 months and 12 days. In the circumstances of this case, it is reasonable to hold that the periods of unemployment of these workmen should be treated as periods of "lay off" within the meaning of the Industrial Disputes Act, 1947. I accordingly direct that the workmen in question shall be paid lay-off compensation in accordance with the provisions of Section 25C read with Section 25B of the Industrial Disputes Act. For purposes of calculation of the quantum of compensation payable to these workmen, the rate of wages on which each workmen was re-employed in the company (*vide* column 4 of the statement furnished by the management on 23rd December, 1971) shall be the basis for the calculation of lay-off compensation. Shri V. Upadhyaya will be entitled to similar compensation till the date of his re-employment as Mining Sirdar in terms of my direction.

6. As regards the issue at item (c), it is common ground between the management and the union that 109 workmen went on strike from 2nd April, 1971 till the second shift of 20th April, 1971, in the circumstances explained in the statements of the case submitted by the parties. The management took the stand that they being employed in a coal mine which is a public utility service and having gone on strike without notice as required by Section 22 of the Industrial Disputes Act, 1947, the strike was illegal in addition to being unjustified. According to the management, the workmen had no justification or any provocation to resort to the sudden strike in question, and in support of their stand they invited attention to paragraphs 6 and 7 of the note of discussions held by the parties before the Additional Chief Secretary to the Government of Bihar at Patna on 13th April, 1971. They also invited attention to the union's letter dated 26th March, 1971 addressed to the Chief Mining Engineer of the Company in which the union had demanded permanency for the workmen re-employed by the company in their Chasnalla Colliery after their earlier retrenchment by the previous employer, M/s. Cementation Co. Ltd. They therefore strongly opposed the union's demand for wages for the strike period. The union's representative Shri Chatterjee however contended that no coal was being raised in Chasnalla Colliery at the time of the strike that it was only a mining project and that consequently the question of the workmen having to give any notice before going on strike would not arise. During the

hearing on this point, the following statements contained in the note of discussions before the Additional Chief Secretary have been noted:—

"11. Mr. Pronob Chatterjee explained that those workers were given to understand that they are already in permanent employment because their Provident Fund is being deducted....."

"17. Regarding wages during the period of the strike, Mr. Pronob Chatterjee requested consideration by the Management that the workers, during the strike, be paid. Mr. Verma informed that the strike has already been declared illegal by the Regional Labour Commissioner. The question of any payment for this period, therefore, did not arise. Mr. Chatterjee, however, requested to give his opinion regarding the payment."

7. The management's representatives pointed out that the management and the Government authorities have always treated this establishment as a colliery and that the workmen were all along paid bonus under the Coal Mines Bonus Scheme, provident fund benefits under the Coal Mines Provident Fund Scheme, etc. The principle of "no work no pay" has been a settled practice in the field of labour-management relations, and where the workers resort to a precipitate strike in contravention of the legal provisions, the question of payment of any wages for the strike period would not arise at all. My answer to the earlier part of item (c) of the terms of reference is therefore in the negative. As such, the question of quantum of wages envisaged in the second part of this issue would not arise. The circumstances of this case would have however warranted the grant of some other relief to the workmen by way of adjustment of the strike period against the leave, if any, due to them. But this kind of relief falls obviously outside the scope of the terms of reference and I cannot go beyond the terms of reference. I am therefore unable to give any relief to the workmen in this regard.

8. The terms of this award shall be implemented within thirty days from the date of its publication in the Gazette of India. Any dispute or difference over their interpretation or application shall be referred to the Regional Labour Commissioner, Dhanbad whose decision thereon shall be final and binding on the parties.

9. This is my award and the reference for my arbitration thus stands disposed of.

(Sd.) O. VENKATACHALAM,
Chief Labour Commissioner (Central)
and Arbitrator.

NEW DELHI;
Dated 31st December, 1971.

[No. L/2012/70/71-LRII.]

BALWANT SINGH, Under Secy.

Department of Labour and Employment

New Delhi, the 3rd January 1972

S.O. 317. In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Inlustrial Tribunal, Madras in the industrial dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on the 30th December, 1971.

BEFORE THIRU K. SEETHARAMA RAO, B.A., B.L.,
PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, MADRAS

(Constituted by the Central Government)

Monday the 29th day of November, 1971

INDUSTRIAL DISPUTE No. 18 OF 1971

(In the matter of the dispute for adujdication under section 10(1)(d) of the Industrial Disputes Act, 1947, between the workmen and the Management of Bank of Baroda).

BETWEEN:

The Secretary,
Bank of Baroda Employees Union,
135, Moore Street, Madras-1.

The Secretary,
Bank of Baroda Staff Union,
C/o Bank of Baroda,
11/12, North Beach Road, Madras-1.

AND

The Manager,
Bank of Baroda, Post Box. No. 1830,
11/12, North Beach Road, Madras-1.

REFERENCE:

Order No. 23|133|70|LR.III, dated the 10th March, 1971 of the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) Government of India, New Delhi.

This dispute coming on for final hearing on Tuesday the 16th day of November, 1971, upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiruvalargal B. R. Dolia, G. Venkataraman and A. L. Somayaj, advocates for M/s. Ayer & Dolia advocates appearing for Union No. 1 and of Thiru M. K. Mardi, Assistant Secretary of Union No. 2 and of Thiruvalargal Subbaraya Aiyar, Seturaman, Padmunaban and N. Krishnamurthy, advocates appearing for the Management, and having stood over till this day for consideration, this Tribunal made the following.

AWARD

The Government of India, by its order dated 16-3-1971, referred the following dispute for adjudication by this Tribunal.

"Whether the management of Bank of Baroda should follow branchwise or citywise seniority for the purpose of payment of special allowance to

(1) Head Peon

(2) Hundi Presentor/Bill Collector

(3) Daphtri and

(4) Cash Peon."

(2) The Bank of Baroda Employees' Union contended that appointment was made by the bank, of the above four categories of employees, to serve, in any branch of the bank in the city of Madras. The conditions of services were, that the bank employees were liable to be transferred from one branch to another branch, within the city of Madras. The above categories of staff belonging to subordinate staff, got allowances, payable for performing additional duties, in addition to their routine duties. The special allowance payable as per awards and settlements, is payable only on performance of those extra duties. The plea is that, in filling up appointments that carried special allowance, city seniority basis should be the criterion, in that, workmen were never appointed for any particular branch and branch-wise seniority, therefore, is not acceptable. City-wise seniority for

purpose of special allowance appointments is the pattern for this Bank at Calcutta, Delhi and Ahmedabad. At one stage, during conciliation proceedings, the Bank agreed that city-wise seniority could be the basis for purpose of payment of special allowance that is payable to senior-most employees. If branch-wise seniority is followed, special allowance posts might be filled up by junior hands.

(3) The Bank of Baroda Staff Union contended, that branch-wise seniority should prevail in the matter of appointments to posts carrying special allowance, in that, special allowance was given because of a degree of skill, strain of work, experiences etc., etc.

(4) The Bank contended that one Shri Krishnan Nair, who was working as Head Peon, which post carries special allowance, retired from service on 31-12-1969. Disputes arose between the two Unions, as to whether city-wise basis or branch-wise basis seniority was to be followed, when filling up the above vacancy of that Head Peon. The settlement dated 19-10-1966 reads that special allowances were intended to compensate workmen for performance or discharge of certain additional duties and functions requiring greater skill or responsibility, over and above routine duties and functions attached to that cadre. Special allowance is actually functioned allowance. Other things being equal, in relation to ability to perform duties, the Bank avers that seniority in service might be a consideration for making appointments that carry special allowances. In the matter of special allowance payable to a Head Peon and Duphtri, the seniority of all the peons in all the branches of the city may be considered, but in case of special allowance for cash peon and bill collector, Liftman, Cyclostyling Machine Operator, seniority amongst peons at each branch office should be the criterion. The post of a Head Peon is in the nature of promotion to Peons. The special allowance for Daphtry is generally given to Peons, who do duties of a Daphtry, and so Daphtri post, like Head Peon is a promotion post to a peon. On the contrary, the posts of Cash Peon and Bill collector are posts that cannot be considered as promotion posts. Settlements and agreements at different places have been the basis for setting out conditions for promotion to posts that carry special pay and that is how, in some places, city-wise basis seniority is followed by this Bank, while in other places, branch-wise seniority is followed.

(5) The evidence of W.W.1, who is Secretary of Bank of Baroda Employees' Union, was not sought to be controverted by tendering any contra evidence, either by Union No. 2 or by the management. W.W.1 conceded that, so far as post of cash peon was concerned, the special allowance paid was very small and very necessarily, each branch accountant would prefer, for the post of cash peon for his own branch office, one in whom he had confidence and trust. In other words, W.W.1 agreed that post of cash peon could be filled up on the basis of branch-office-wise seniority basis. Similarly, W.W.1 agreed that small leave vacancies or purely temporary vacancies could be filled up in any manner that the bank chose, but, he emphasised that regular vacancies that arose in the category of Head Peon, Hindi Presentor or Duphtry, were to be filled up by the senior-most peons in the city, in that those posts were promotions for peons, as the posts carried substantial special allowances.

(6) W.W.1 gave reasons as to why the posts of Head Peon, Hundi Presentor and Daphtri had to be necessarily filled up, following city-wise seniority basis. The allowances were substantial. Branch offices in the Madras city had been started at various points of time. Some branches were started years ago, while others were new branches and so, on the face of it, branchwise seniority had no meaning. In awards concerning Bank employees, special allowances had always been treated as salary, and, surely, a junior official was not to get more salary than a senior official. Head Peons were recruited from category of peons. Likewise, Hundi Presentors and Daphtris were recruited from the category of peons. At Calcutta and Delhi, this Bank followed city-wise seniority basis for filling up the above posts. In the settlement, as between All India Central Bank Employees' Federation and the Central Bank, the Central Bank had accepted this principle of city-wise seniority for all posts carrying special pay. W.W.1 admitted that his Union was bound by Ex. W-1 agreement dated 19-10-1966. Now Ex. W-1 sets out at page 70, the duties of Bill Collectors, Daphtris and Head Peons. No person, who is an illiterate, can perform the above duties, and no peon, now functioning, in this Bank is an illiterate person. W.W.1 agreed that peons did not know the English language, but every peon working in the Bank, knew to read and write in the regional language. Union No. 2 posed this question as to how peons, who had no ability to perform a special post, could be appointed to that post. W.W.1 answered that question by stating that non-English knowing peons were recruited in the past and that is why functional eligibility for the above post was never insisted upon, at any time. In 1965, this Bank did not insist at Cochin, in that award passed on the eligibility clause to be inserted side by side with city-wise seniority clause in the matter of promotion to the above categories of posts. W.W.1 agreed that Sastri Award reads that special allowance was payable, on account of special aptitude and ability of a particular employee to do that particular job, carrying special allowance. (Ex. M-1 at pages 49 and 51). The above principle was accepted in the award in Ex. W-1 and also in the Desai Award in Ex. M-2. W.W.1 agreed that ordinarily a Daphtry had to file letters written in English language. But as a rule, Daphtries in this bank did not file English letters.

(7) The management filed the note in Ex. M-3 to explain why promotions to the above posts could be done on the basis of branch-office-wise seniority. I mean by the word 'promotion', regular promotions and not filling up of a small leave vacancy on a temporary basis, but Ex. M-3 was not sought to be proved by tendering any evidence.

(8) I agree that special allowance is payable under the Awards, on account of the employee performing posts that required special skill. So far as post of Head Peon was concerned, no special skill is necessary. He merely supervised the work of peons, and, when one is suitable to be a peon, surely, he is suitable also to be a Head Peon. So far as Hundi Presentor and Daphtry are concerned, the above posts require some more skill than what is required to perform duties of a peon. I find accordingly. Ordinarily, therefore, consistent with the writing in the Sastri Award and the Desai Award, and the writing in Ex. W-2, I may have had to pass (what I am not doing) this award to this effect, that city-wise seniority should be the basis for promotion to the post of Hundi Presentors and Daphtries, provided candidates for promotion had the requisite skill to perform the above posts.

(9) As to what is the skill necessary for performing the above posts, will have to be defined, for, unless such definition is made, promotions might be made on an arbitrary basis by stating that one peon had skill, while another did not have skill. Requisite skill is an expression that must be defined in relation to each kind of duty, and unless that is made, no award setting out special skill, as the qualification needed for a post, could be made.

(10) What is rightly urged on behalf of Union No. 1, is that, admittedly, as spoken to by W.W.1, during conciliation proceedings, the management or the other Union did not raise this issue that eligibility to the

post was an issue required to be considered side by side with the issue about seniority on city-wise basis or branch-wise basis. In other words, Union No. 1 contends that this Tribunal has no jurisdiction to give a finding on the issue about a person having the competent skill to perform the above post, an issue that does not arise, out of the reference, that is made by Government for adjudication by this Tribunal.

(11) The learned counsel for Union No. 1 relied on the decision reported in Vol. 30 Part 12 of Indian Factories Journal 299 at page 314 (Hindustan Housing Factory Employees vs. Management) to contend that the law is that the reference by Government cannot be enlarged to take within its ambit, the issue as to whether promotion should be dependent on suitability of the candidates. In the above decision, Their Lordships referred to the Supreme Court decision and laid down the law in the following language. "Something incidental to a dispute must, therefore, mean something that happened as a result of or in connection with the dispute or associated with the dispute. The dispute is a fundamental thing while something incidental thereto is an adjunct to it. Something incidental, therefore, cannot cut at the root of the main thing to which it is an adjunct." It is argued that reference by Government pre-supposes an existing state of facts to exist as an accepted fact by both parties, and, that being so, re-opening of an existing state of facts and an adjudication made, on that settled issue, would not be something that is incidental to the referred dispute, for that is a sphere into which it was never expected that adjudication would ever extend. He argued that the reference merely reads that the issue to determine is as whether promotion should depend on city-wise or branch-wise seniority meaning thereby, that, at the time of reference, or before it, or even after it, right till adjudication commenced in this court, the management was not concerned at all on the issue about candidates being suitable or otherwise, for promotion, as though they then assumed, that every peon working throughout Madras City, was fit for the posts and, at any rate, there was nothing to choose amongst them to find one suitable and another not suitable The contention is that in the Supreme Court decision referred to in page 314 in the decision cited above, Their Lordships held that the reference read as though there was a strike. The only issue was as to whether the strike was legal or not and when that was so, how could the Industrial Tribunal enlarge the scope of the reference by recording evidence on the issue as to whether there was strike or no strike at all? Strike, there was, and the issue to determine was whether the strike was legal or illegal. The learned counsel contended that unit for promotion was the cadre of peons and the only issue was whether their seniority was to be based on branch-wise or on city-wise basis. Once the ambit of adjudication is thus limited in the language in which the reference is couched, how could it be held, so it is rightly argued, that I could proceed to state that not merely city-wise or branch-wise seniority should be the basis but, on top of it, I should decide, on contentions raised that suitability to the posts concerned has also got to be the criterion.

(12) The learned counsel for the Bank urged, that, at all times, it was accepted that suitability to the posts concerned was the very basis or the very fundamental criterion and, amongst suitable candidates fit for promotion, the issue would be, to determine whether city-wise seniority or branch-wise seniority had to prevail, as amongst suitable candidates. He argued that, not that adjudication is being expanded, but that, to determine the very issue as to whether city-wise or branch-wise seniority was the criterion I have to determine the issue about requisite quality or suitability of the candidate for the posts In my view, the issue about requisite skill is not an issue that arises at all, for or when determining the issue as to whether city-wise or branch-wise seniority had to prevail; in other words, the issue about suitability was understood, either as relevant or not relevant and not that this issue was ever left over to be considered by this Tribunal Surely, a peon who is mentally ill or is physically infirm, or totally incapable cannot claim to be promoted to the above posts. But then, it could be that all peons had the same ability or suitability to the above posts, and so the above issue might never arise as in this bank to be adjudicated upon by any one. I find that above issue does not arise and is not at all incidental to the determination of the only issue, about city-wise seniority or branch-wise seniority, being the criterion for promotion.

(13) In the result, accepting the evidence of W.W.1. I pass this award that for the posts of Head Peon, Hundi Presenter and Daphtri, that would arise in the city of Madras, in this Bank of Baroda, Madras city-wise seniority basis will be the criterion for promotion and not that the criterion could ever be branch-wise seniority. By 'promotion', I mean, process of filling up of vacancies, other than purely temporary leave vacancies. For the post of Cash-peone, promotion will be made on the basis of branch-wise seniority and not on city-wise seniority basis. The award is accordingly passed.

Dated, this 29th day of November, 1971.

(Sd.) K. SEETHARAMA RAO,
Industrial Tribunal.

Witnesses Examined

For workmen:

W.W.1—Thiru N. Narayana Nair.

For Management: NIL

Documents Marked:

For workmen:

W-1|19-10-66—Settlement between the Bank Managements and their workmen (Printed copy).

W-2|30-1-70—Memorandum of agreement between the Central Bank of India and the All India Central Bank Employees' Federation (Printed copy).

For Management:

M-1—Sastry Award (Printed copy).

M-2—Desai Award (Printed copy).

M-3—Note on practices followed in respect of criteria for deciding seniority in sanctioning special allowances to the Subordinate Staff.

Court Exhibit:

C-1—Minutes of discussions held on 8th and 9th June, 1970 at Bombay between the representatives of the co-ordination committee and the Bank. (copy).

(Sd.) K. SEETHARAMA RAO,
Industrial Tribunal.

NOTE: The parties are directed to take return of their document|documents within six months from the date of the Award.

[No. 23|133|70|LRIII.]

S.O. 318.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Madras in the industrial dispute between the employers in relation to the management of Indian Overseas Bank, Madras and their workmen, which was received by the Central Government on the 27th December, 1971.

BEFORE THIRU K. SEETHARAMA RAO, B.A. B.L.

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, MADRAS

(Constituted by the Central Government)

Monday, the 29th day of November, 1971

INDUSTRIAL DISPUTE No. 4 OF 1971

In the matter of the dispute for adjudication under section 10(1)(d) of the Industrial Disputes, Act, 1947, between the workmen and the Management of Indian Overseas Bank, Madras

BETWEEN

The President, All India Overseas Bank Employees Union, 11, College House, No. 17, Baker Street, Madras-1.

AND

The General Manager, Indian Overseas Bank, Mount Road, Madras-2.

REFERENCE:

Order No. 23/90/70/LR-III, dated 10th December, 1970, of the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) Government of India, New Delhi.

This dispute coming on for final hearing on Wednesday the 10th day of November, 1971, upon persuing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiruvalargal C. Ramakrishna and N. G. R. Prasad, advocates for the management and of Thiru A. L. Somayaji, advocate of M/s. Aiyar and Bolia, advocates for the union and having stood over for consideration till this day, this Tribunal made the following.

AWARD

The dispute in reference No. 23/90/70/LRIII dated 10th December, 1970, was referred to me for adjudication. The point for consideration is the following, as mentioned in the above Government Order:

"Whether the following four persons employed in the Officer quarters of the Indian Overseas Bank at Bandra, Bombay are workmen of the Bank? If so, what should be the wages and allowances payable to these persons?"

1. Shri Narasappa.
2. Shri Deepak Bahdur.
3. Shri Jaisingh.
4. Mrs. Sukeda.

(2) The Union contended that it was part of service conditions that the Bank provided quarters for the Officers, working at the various branches of the Bank in Bombay. The quarters at Bandra are owned by the Bank. Shri Narasappa joined duty as watchman on 1st May, 1968. Shri Deepak Bahdur is in service, ever since 1966, as watchman and they have been working as watchmen. Watching the building (quarters), for more than 8 hours, each day, drawing a salary of Rs. 100, Rs. 100 and Rs. 110 per month, respectively.

(3) Mrs. Sukeda is a sweeper, sweeping the quarters mentioned above, since 1965, working for more than 8 hours per day and is paid salary of Rs. 60 per month. The Bank paid salaries to the above four persons. The above work of keeping the quarters safe and clean, is incidental to the businesss of the Bank, and yet the above employees have not been paid salary due to them as Bank employees, as per awards binding the Bank and its other employees.

(4) The Bank contended that the above four persons are just the personal servants of the Officers of the Bank, working in the quarters provided for the Officers. They were domestic servants who were not 'workmen' as defined in the Industrial Disputes Act, 1947. The quarters were provided, as far as practicable, to Officers, in lieu of house rent allowance, and not that quarters were provided, as per service conditions. So many officers, locally recruited, were not provided with quarters. The payment by the Bank is made towards salary of watchmen and sweeper employees, to reimburse the officers, who incurred expenditure on that account. Once, Mahim branch of the Bank made payments to watchmen, who were employed by the Officers, directly. The Bank never appointed the above servants. At no time, the above servants received emoluments, on par, with Bank employees. Such employees attended to other work such as collection of milk from milk booths, cleaning of cars owned by the Officers and taking of Officers' children to Schools. The sweeper is cleaning various other buildings, and not merely the quarters. Domestic servants are not 'workmen' as defined in Section 2(j) of the Industrial Disputes Act. The Bank is not aware of the hours of work, done by these employees. The work of these four employees is not connected with, or incidental to, the work of the Bank namely, banking business. The payment made to those employees is done only, for and on behalf of Officers. The Bank does not know that similar employees functioning at Quarters in the Reserve Bank of India, were treated as bank employees. The quarters of this Bank were first occupied in July, 1966 and so many persons, since then have functioned as watchmen and sweepers.

(5) The Bank filed an additional counter statement to contend that the first three persons mentioned in the Government Order are no longer employed by the Officers of the Bank, in the quarters provided for them, and hence the dispute concerning them has become infructuous.

(6) M.W. 1, who is the Agent of Indian Overseas Bank's Worli Branch, admitted the following facts:— (a) From July, 1966, Rs. 420 per month were being paid by the Bank, month after month, and, invariably, the payments were made only to the Manager of the Bank and not to a lesser Official. (b) M.W. 1 received the payment as per the pattern of payment by the Bank, that is, of Rs. 420 per month, for purpose of keeping the premises safe and clean. (c) The old procedure was that the employees concerned went to the Bank and they received payment direct, as seen from the receipt in Ex. M-31. (d) After M.W. 1 became Secretary of the Resident Committee, that is, from November, 1970, the disbursement of Rs. 420 received from the Bank is attended to by M.W. 1, who changed the old procedure and made disbursements himself, to the employees. (e) M.W. 1 spent above Rs. 25 per month, to buy up the necessary material needed for keeping quarters clean. The above payment were made, month after month, by the Bank to M.W. 1. (f) When M.W. 1 took charge in November, 1970, the watchman on duty was claimant No. 2 (Shri Deepak Bahdur), who continued as watchman. Only 5 months ago, claimant No. 2 stopped watching the quarters, and till then, he continuously worked as watchman. (g) Claimant No. 3 (Shri Jaisingh) left service, as watchman only a week ago (early in November, 1971) and till then, he was watchman. But then the above claimant had earlier left service and he rejoined as watchman, only in January, 1971, and so, only from January, 1971, till about a week prior to the examination of the witnesses, claimant No. 3 was working continuously as watchman for the quarters. Sweeper Mrs. Sukeda worked as sweeper continuously for the quarters, till about two months prior to the examination of this witness. M.W. 1 did not known anything about claimant No. 1 who was unknown to him.

(7) In view of the fact that the evidence of W.W. 1 about hours of work is merely based on what he was told by the above four workers, and not that he knows personally as to when the workers joined or left service, it has got to be held that the only acceptable

evidence about length of service of these claimants is what is admitted by M.W. 1. I find, therefore, that it is not proved that claimant No. 1 ever worked at any time, whether as watchman or in any other capacity. I find that claimant No. 2 was watchman for a continuous period of time till about five months ago, I find that claimant No. 3 worked as watchman from January, 1971 and till early in November, 1971.

(8) About supervision of work done by the claimants, the evidence of M.W. 1 is that he bought up dusters, brooms, etc., to get cleaned the quarters. He was paid Rs. 25 per month by the Bank for the above purpose. M.W. 1 expected the watchmen and sweeper to obey his instructions. M.W. 1 admitted that he supervised the work of claimants No. 2, 3 and 4 and he added that watchmen were made to watch the quarters, during night and day, without break.

(9) The contention, on behalf of the Bank, in that spervision and control of work by M.W. 1, in his capacity as Secretary of the Resident Committee, can never mean that the Bank ever supervised or controlled the work of the claimants. An against this, the Union contended that the evidence of M.W. 1 that he was Secretary of the Resident Committee, was fictitious. Prior to M.W. 1, that is, prior to November, 1970, according to M.W. 1, one Shri Kunthilal Vakaria was Secretary of the Resident Committee, and the above person, it is, who had handed over certain papers to M.W. 1. M.W. 1 could not produce those papers, though he was given time, till the next day, to produce the same. M.W. 1 had scrutinised the prior records to ascertain the salary rates payable to workmen. He contacted the previous branch of his Bank to ascertain as to what salary was payable to the employees and the Mahim branch gave him the following particulars:—Shri Siva, who is not a claimant Rs. 100 per month. Shri Deepak Bahdur, who is claimant No. 2, Rs. 100 per month. The third watchman, whose name was not remembered by the witness, Rs 100 per month and Mrs. Sukeda, Rs. 60 per month. The Bank furnished the above particulars in a list to this witness in November, 1970, but the witness could not produce the above list on the next day. M.W. 1's predecessor-Secretary was functioning as Manager for Opera House branch in November, 1970, and never as Manager of Hahim branch and yet payments to the employees mentioned above were made by Mahim branch and that prior to November, 1970.

(10). The Union contended that the story that there was a predecessor-Secretary, was fictitious. If there was a predecessor Secretary for the Resident Committee, it is only the Opera House Branch Manager of the Bank who could have made the payments and not that the Manager of the Mahim branch could ever pay. At any rate, payment directly by the Bank to the employees should indicate, so it is argued, that prior to November. 1970, and even thereafter, there never was a Secretary for the Resident Committee and the evidence about Resident Committee is fictitious.

(11) In the decision reported in 1955 I L.L.J. page 688 (Shivnandan Sharma Vs. Punjab National Bank, Ltd.). Their Lordships of the Supreme Court considered the legal effect of payment of wages by one party, while supervision and control of work was done by another party. They seemed to emphasize that, what really mattered, ultimately, was determination of the issue as to who exercised control and supervision over the staff. The observations are as follows:—

> "It is true that the defendants selected the man and paid the wages, and these are circumstances which, if nothing else interfered, would be strong to show that he was the servant of the defendants. So, indeed, he was as to a great many things; but as to the working of the crane he was no longer their servant, but bound to work under the orders of Jones and Co, and if they saw the man misconducting himself in working the crane or disobeying their orders, they would have a right to discharge him from that employment."
>
> "Many factors have a bearing on the result, who is the paymaster, who can dismiss, how long the alternative service lasts, what machinery is employed, have all to be kept in mind. The expressions used in any individual case must always be considered in regard to the subject matter under discussion, but amongst the many tests suggested I think that the most satisfactory, by which to ascertain who is the employer at any particular time, is to ask who is entitled to tell the employee the way in which he is to do the work upon which he is engaged."

In the decision reported in 1971 II L.L.J. page 122 (Ganesh Flour Mills Co., Ltd., *Vs.* Labour Court, Allahabad), Their Lordships dealt with the law as laid down in the decision reported in 1963 II LL.J. page 436 (J. K. Cotton Spinning and Weaving Mills Company, Ltd. *Vs.* Labour Appellate Tribunal of India and others). In the above Supreme Court case, the question was whether the malis engaged to look after the gardens of the bangalows provided by the Company for its Officers, would be covered by the expression "employed in any Industry" occurring in section 2(s) of the Industrial Disputes Act, 1947. The facts are that names of the malis were borne on a register maintained by a clerk of the company. The above clerk supervised and controlled day to day work of the malis. The afficers who were allotted the bangalow had no control over the malis and they exercised no jurisdiction over them. The malis were paid by the company, though the officers made a small contribution towards salary of Malis. The Supreme Court held that the term "employed in any industry" does take in employees in connection with operations, incidental to the main industry. Wherever it was seen that an industry had employed an employee to assist one or the other portion, incidental to the main industrial portion, such employee is an employee in that industry. The learned counsel for the management, Mr. C. Ramakrishnan, urged that the gardens, looked after by the Malis in the above case, most of them, were gardens situated within the mill compound. The facts however were that outside the compound of the factory, but within the colony of the mills, were situated the bangalows occupied by the officers of the mills and the director, and it is the gardens attached to these bangalows that were looked after by the 10 malis, in that case. Secondly, in that case, the malis were appointed by the Mill. Sri C. Ramakrishnan urged that it has not been spoken to at all that any of the claimants, concerned in this industrial dispute were ever appointed by the Bank. The admitted fact is that, work of the 10 malis in the reported case were supervised and controlled by the mill clerk and the Mill office had the right to dismiss the malis and the officers had no control over the malis to any extent.

(12) On the issue about these claimants being employees in the industry it is urged that the above facts that mill appointed the malis and controlled their work, was the determining factor that concluded the issue that the 10 malis were employed in that industry. If there was no appointment by the mill and if there was no control by the mill, could the above 10 persons be treated as employed in that industry? Unless the work of keeping the quarters clean and safe is incidental or connected with the main industry of banking, it could not be that, the employees should be treated as workmen of the Bank. The Union had contended that the 10 malis in the above case merely looked after the gardens and some out of those gardens were attached to the quarters. Their Lordships observed as follows:—

> "While we are dealing with this point, it is necessary to bear in mind that the bungalows are owned by the appellant and they are allotted

to the officers as required by the terms and conditions of the officers employment. Since the bungalows are allotted to the officers, it is the duty of the appellant to look after the bungalows and take care of the gardens attached to them. If the terms and conditions of service require that the officers should be given bungalows and gardens are attached to such bungalows, it is difficult to see why in the case of *malis* who are employed by the appellant, are paid by it, and who work subject to its control and supervision and discharge the function of looking after the appellant's property, it should be said that the work done by them has no relation with the industry carried on by the appellant. The employment is by the appellant the conditions of service are determined by the appellant, the payment is substantially by the appellant, the continuance of service depends upon the pleasure of the appellant, subject, of course to the standing orders prescribed in that behalf, and the work assigned to the *malis* is the work of looking after the properties which have been allotted to the officers of the appellant. Like the transport amenity provided by a factory to its employees, bungalows and gardens are also a kind of amenity supplied by the employer to his officers and the drivers who look after the buses and the *malis* who look after the gardens must, therefore, be held to be engaged in operations which are incidentally connected with the main industry carried on by the employer. It is true that in matters of this kind, it is not easy to draw a line, and it may also be conceded that in dealing with the question of incidental relationship with the main industrial operation, a limit has to be prescribed so as to exclude operations or activities whose relation with the main industrial activity may be remote, indirect and far-fetched. We are not prepared to hold that the relation of the work carried on by the *malis* in the present case can be characterised as remote, indirect or far-fetched. That is why we think that the Labour Appellate Tribunal was right in coming to the conclusion that *malis* are workmen under the Act."

(13) W.W. 1 admitted the following: "I admit that, on this date, as at present, Shri Narasappa, Shri Deepak Bahadur, and Shri Jaisingh the first three persons mentioned in this dispute are not working as watchmen for the quarters. I do not know the date or the month or the year, when they stopped working as watchmen for the quarters of the above Bank. The above three persons were not dismissed and they were not retrenched and they have not resigned and yet they are not in service, for, how long, I cannot say. The three watchmen mentioned in this dispute did not get benefit of the benefits ordinarily available to the employees who leave service. I say this, that I met the four persons and each of them told me that, each of them worked for 8 hours, a day. I have not seen any of the workmen mentioned in this dispute, working at any time for 8 hours at a stretch. The appointments of the four persons mentioned above were done by the bank, only through the bank supervisor, and not that there was any interview or any selection, at the bank premises, for making any of the appointments of any of the four persons mentioned above. On the appointment being made by the bank, one becomes a supervisor of those four persons. There was no writing by the bank, whatever, at any time to appoint that supervisor. The work of the above four persons were supervised by an official of the bank by name Shri Ganesh Pai. At no time, was bonus granted to any of the four persons mentioned in the dispute." I have to state this, that W.W.1 provaricated in his evidence, that is, in chief examination, he stated as though the four persons were still is service, doing work, but in cross-examination, he admitted that three of them had ceased to work owing to some reason or other that was not known to W.W. 1. About the work done, whether for 8 hours or less than 8 hours, only the workers told him that they did 8 hours work. The fact is that workers were not examined. The very fact that not one worker is examined is suggestive of one fact and no other, that the workers are withheld from the witness box, indicating the obvious, that, if they were examined, they would not support the case, put forward, by W.W. 1 in his evidence.

(14) The management examined Mr. G. Ganesh Pai (M.W. 1), whose name is mentioned in the evidence of W.W. 1, as the person who supervised the work of the four persons, mentioned in this dispute.

(15) On behalf of the Union, it is urged that the evidence of M.W. 1 is by itself sufficient to prove that the bank supervised or controlled the work of the four workers mentioned in this dispute. I do not agree, for, M.W. 1 deposed very truthfully, in my view, that, at no time, an appointment order was ever issued to the four persons mentioned in paragraph 5 of the claim statement. He added that, none of the above four persons, ever came under the disciplinary control of the bank that exercised no control whatever, at any time, on any of the four persons mentioned in paragraph 5 of the claim statement. M.W. 1 deposed truthfully that none of the four persons signed any attendance register, at any time.

(16) The quarters were acquired in July, 1966. The residents at the quarters elected a committee known as Resident Committee, which committee elected the Secretary, year after year, and that Secretary used to draw Rs. 420 per month from the bank for purpose of payment to be made to the watchmen and the sweeper. M.W. 1 become Secretary only in November, 1970. The bank never gave direction as to how that amount was to be disbursed. M.W. 1 spoke the truth that Shri Narasappa, the first watchman mentioned in the Government Order, is an unknown person. The watchman substituted, one for the other, and so, there was no regularity or continuity of service for any watchman and whoever watched the premises was paid the salary for that month. The Gurkha watchman took children of officers to schools. Concerning the watchman or sweeper, M.W. 1 had no correspondence with the bank, at any time, for the Secretary of the Resident Committee could change them as he liked, at his will or pleasure.

(17) On behalf of the Union, it is urged that, the evidence about Resident Committee is false evidence, in that, prior records for the period prior to 1970 concerning this Resident Committee were not produced by M.W. 1, though actually, those records, at one stage, it was admitted were available with M.W. 1 who admitted that, prior to 1970, the salary amount was paid at the bank premises to the workers themselves. But from November, 1970, M.W. 1 by himself disbursed the salary amount. It is clear from Ex. M-34 and other receipts filed for the period prior to November, 1970, that workers themselves received payments, at the Bank premises, but the payments were not made to individual watchman separately. Ex. M-34 merely reads that Rs. 370 plus Rs. 50 were paid as amount of compensation to Gurkhas, whose names are not mentioned in the receipt. Ex. M-35 reads that Rs. 21 were transferred to the account of Gurkhas by the bank. Similar are the contents of the receipt in Ex. M-36. Ex. M-31 to Ex. M-33 prove that some amount was transferred from the Bank accounts. I agree that Ex. M-31 reads that Rs. 370 were paid as salary and Rs. 50 were payable to the electrician as salary. But Ex. M-32 reads that Rs. 42 was the proportionate share of Gurkhas salary and electric charge for October and November, 1969. On carefully reading through the receipts, I find that names of Gurkhas

were not mentioned and compensation for salary was, however, then paid by the bank to watchman and electrician employed in the quarters.

(18) The important fact to remember is that from November, 1970, the salaries were invariably paid only by M.W. 1, who obtained the receipts in Ex. M-41 (a) to Ex. M-41(1) in the book in Ex. M-41. Ex. M-41(a) reads that Rs. 100 were paid to Dibbabunadur Gurkha, and Rs. 100 were paid to Jaisingh and Rs. 110 were paid to Shiva Mali, whose name is not mentioned in the claim statement and Rs. 50 were paid to Nimat, who is neither here nor there, and Rs. 60 were paid to sweeper Sukdev, that is, to No. 4 in the claim statement. On behalf of the Union, it is urged that Dibbabahadur Gurkha, who is serial number one in the receipts, is no other than Deepak Bahadur, who is No. 2 in the claim statement. The fact to remember is, Narasappa's name is not mentioned in any of the receipts and further, it is seen that Shiva Mali received Rs. 110, out of Rs. 420, and Shiva Mali is neither here nor there. The name of Chandrasingh is name No. 2 in Ex. M-41(d). In the subsequent receipt also, Dibbabahadur's name is omitted, and Chandra Singh is the person, who is paid Rs. 100 as under the subsequent receipts. One Ram Bahadur is paid Rs. 100 under the receipts in Exs. M-41 (h) (i) (j) and (k). In place of Sukdev, the sweeper, one Krishna (Sweeper) was paid Rs. 60 in September, 1971 [M-41(k)] and Krishna got the payment as Sweeper in the subsequent month also.

(19) One can fairly presume as to why the Union did not examine any of the persons who claim to be workers of the bank. They did not receive the salary in a regular way and some of them did not work for months and months. I agree that M.W. 1 deposed as to how Jaisingh had placed another watchman in his place to work during his absence. But then, it is nobody's case that such substitution was ever agreed to by the bank. I find that M.W. 1 has proved, beyond doubt, that watchman came and watchman went and one substituted for the other, and all such appointments were invariably made only by M.W. 1, from November, 1970 and never by the bank that had nothing to do with either the original appointments made or the subsequent substitutions made or appointments made after November, 1970, whether of the original watchman or their substitutes.

(20) I find that M.W. 1 has spoken the truth that the bank had nothing to do either with the original appointments of any of the watchmen or sweeper and the Bank never controlled or supervised the work of any watchman or sweeper, at any time.

(21) I may state here that in the claim statement, there is no averment made that there was any supervision or control of any of these workers by the bank or an official of the bank, for and on behalf of the bank. The argument is, however, advanced by the learned counsel for the Union that I should presume that M.W. 1 exercised control or supervision only, for and on behalf of the bank. In other words, the plea is that though the plea of agency is not pleaded in the claim statement, I ought to fill up blanks and conclude, on the basis of the evidence of M.W. 1, that M.W. 1 was merely as agent or intermediary, functioning for and on behalf of the bank. In my view, the above argument is not acceptable. The Gurkhas used to take children of the officers to school. The sweeper was paid Rs. 60 for sweeping the quarters occupied by all the officers. In other words, the work was essentially done only for the officers, and that being so, ordinarily, the control of those workers had to vest, in the nature of things, in the officers, themselves. If a driver drives a car that is run for the benefit of a particular officer, surely, the driver drives it under the control of that officer, though, actually, the car might belong to the bank. The fact that the quarters belonged to the bank, and the bank paid compensation amount or salary, is a factor to be taken note of, but were payment of compensation or salary cannot mean anything more than this, that, an additional facility or amenity was provided to the officers, in that, not merely the buildings or quarters, but, on top of it, the amenity to get the quarters watched and swept for the officers, was provided for, by the bank which amenity so provided cannot also mean that, even the control and supervision of such watchman and sweeper, had necessarily to vest or was done by the bank. As agreed to by W.W. 1, no appointment order appointing any supervisor of the bank to supervise the work of those watchmen or sweeper was ever issued. The receipts indicate that salary before November, 1970 was paid in bulk, from time to time. I agree that salary was received at Mahim branch from a supervisor, in the past, at a time when that supervisor was not secretary of the Resident Committee, but mere receipt of salary or compensation, as held in the decision reported in 1955-I-L.L.J. page 688, is by itself, not sufficient to conclude that the person who paid compensation or salary, employed those persons who received that compensation. Compensation was then paid, in bulk, and not, individually, to any worker. Secondly, from November, 1970 the workers well knew that the Resident Committee was their employer and the Secretary of that Resident Committee was paying them salary. The very fact that such Secretary, on his own, admitted changes and substitutions, really means this, that he made his own appointments without consulting the bank to any extent, indicating the obvious, that his status was not that of an agent or intermediary, but of one who functioned, in his own capacity, as Secretary of the Resident Committee. I find that it is proved beyond doubt that M.W. 1, from November, 1970, has paid salary, only in his capacity as Secretary of the Resident Committee. I find that, prior to November, 1970 also, it has not been proved that any supervision or control was ever exercised by the bank of the work of those watchmen or sweeper. In my view, when W.W. 1 could not even mention the name of the bank official who is said to have supervised on behalf of the bank, prior to November, 1970, it would be wrong to presume that such supervision was exercised prior to November, 1970 by any bank official, for and on behalf of the bank.

(22) My attention has been drawn to the decision reported in 1964-I L.L.J. page 285 (United Beedi Workers Union, Salem *Vs.* Three Lotus Beedi Factory). In the above case, it was proved that the so called contractors or intermediaries were zeroes and that the agreement they had with the owners of Trade mark beedies were really get-up documents and that, in fact and in reality, the so-called contractors were merely agents, who received beedi leaves and tobacco, at a specified rate, and made over rolled beedies to Trade mark owners at a specified rate, which conduct, year after year, and similarity in the pattern of the same, indicated to Their Lordships of the Supreme Court that these intermediaries were merely agents of Trade mark owners. As already stated, there is no plea in the claim statement about control or supervision by the bank, or the bank official in any capacity. In my view, the evidence of W.W. 1 is not acceptable. The evidence of M.W. 1 is true. I find that M.W. 1, and prior to him the bank officers, who got the quarters, exercised control and supervision over the watchmen and sweeper, only in their own capacity, unrelated to the bank, in that they were interested to keep the quarters clean and safe. They were bound to do the above work and not that they did that work for and on behalf of any other principal like the bank. To take an analogy, the car might be furnished by the bank for the benefit and use of its officer-employee and also the Bank might pay the allowance for the Driver, but even then, so long as the driver drove the car for the employee, it can never be said that the driver of the employee and the driver's services were controlled by the employee, it can never be said that the driver of the

car is an employee of the institution that provided the amenity of a car and drivers allowances to its employee (Ex. M-38 award that was confirmed in the High Court).

(23) In my view, the fact that watchmen for quarters of other Banks are treated as servants of the Bank is not what is relevant, for they may have been appointed by these Banks.

(24) On behalf of the Union, it is urged that quarters were provided for, under service condition No. 93 in Ex. W-4 that reads that the employees were entitled to House allowance of 20 per cent of his basic pay, if they were not provided, with free furnished quarters. In other words, the contention is that quarters were provided as per contract contained in service conditions. These contracts are not to be confused with certified Stnding Orders, that is, in law, the bank was not bound to provide quarters to its employees. Secondly, the mere providing of quarters and the additional amenity of compensation payable to watchmen and sweeper, cannot by itself mean that watchmen and sweeper in the quarters are employees of the bank.

(25) No appointment order was ever issued to any watchman or sweeper, and at no time the bank by itself or through any agent, appointed as such, directly or indirectly, supervisors who controlled the work of the watchmen and sweeper. The consequence is, and I find accordingly that none of the four persons mentioned in the Government Order are employees of the bank. I find that Shri Narasappa was never employed by any one at any time. I find the other three were employed, not regularly or systematically, that is, others substituted for them from time to time, and they were, however, once employees of the officials of the bank, occupying the quarters. The award is passed that the workers are not entitled to any relief. I also find that Deepak Bahadur and Jaising left services of the bank officials, long ago, and they were not in service of the bank officials even on 10th December 1970, when this dispute was referred to this Tribunal for adjudication, and so, in any event, they are not entitled to any relief. The award is passed accordingly. Dated, this the 29th day of November, 1971.

(Sd.) K. SEETHARAMA RAO,
Industrial Tribunal.

Witnesses Examined

For workmen :

W.W. 1.—Thiru H.M. Naik.

For Management :

M.W. 1—Thiru G. Ganesh Pai, Agent.

DOCUMENTS MARKED :

For workmen :

W-1/24-6-70—Conciliation failure report.

W-2/22-12-69 —Letter from the Union to the Regional labour Commissioner (Central), Madras requesting to intervene and direct the Bank to take the workmen into permanent service.

W-3/15-1-70—Letter from the Regional Manager to the General Manager, Indian Overseas Bank, Madras (copy).

W-4/— —Rules governing the service of officers (Printed book).

W-5/14-12-66—Settlement between the Management and its workmen (Printed book).

W-6/31-12-69 —Conciliation notice issued by the Regional Labour Commissioner (Central) Madras to the parties.

For management :—

M-1/15-6-68—Letter from Indian Overseas Bank Ltd. Fort, Bombay to the Central Office, Madras regarding Bank's Premises—I.O.B. apartments.

M-2/7-11-67—Voucher of Indian Overseas Bank, Mahim for Rs. 320/-.

M-3/23-11-67 Voucher of Indian Overseas Bank, Mahim for Rs. 112/-

M-4/23-11-67—Voucher of Indian Overseas Bank, Mahim for Rs. 32/-.

M-5/23-11-67—Voucher of Indian Overseas Bank, Mahim for Rs. 16/-

M-6/23-11-67—Voucher of Indian Overseas Bank, Mahim for Rs. 48/-.

M-7/23-11-67 —Voucher of Indian Overseas Bank, Mahim for Rs. 64/-.

M-8/23-11-67—Voucher of Indian Overseas Bank, Mahim, for Rs. 16/-.

M-9/23-11-67—Voucher of Indian Overseas Bank, Mahim, for Rs. 32/-.

M-10/23-11-67—Voucher of Indian Overseas Bank, Mahim, for Rs. 320/-.

M-11/5-12-67—Voucher of Indian Overseas Bank, Mahim for Rs. 320/-.

M-12/19-12-67—Voucher of Indian Overseas Bank, Mahim for Rs. 128/-.

M-13/19-12-67—Voucher of Indian Overseas Bank, Mahim for Rs. 32/-.

M-14/5-12-67—Voucher of Indian Overseas Bank, Mahim for Rs. 16/-.

M-15/19-12-67—Voucher of Indian Overseas Bank, Mahim for Rs. 48/-.

M-16/19-12-67—Voucher of Indian Overseas Bank, Mahim for Rs. 16/-

M-17/19-12-67—Voucher of Indian Overseas Bank, Mahim for Rs. 48/-.

M-18/19-12-67—Voucher of Indian Overseas Bank, Mahim for Rs. 32/-.

M-19/19-12-67—Voucher of Indian Overseas Bank, Mahim for Rs. 320/-.

M-20/2-3-68—Voucher of Indian Overseas Bank, Mahim for Rs. 370/-.

M-21/30-3-68—Voucher of Indian Overseas Bank, Mahim for Rs. 198·60.

M-22/30-3-68—Voucher of Indian Overseas Bank, Mahim for Rs. 119·16.

M-23/30-3-68—Voucher of Indian Overseas Bank, Mahim for Rs. 119·16.

M-24/30-3-68—Voucher of Indian Overseas Bank, Mahim for Rs. 79·44.

M-25/30-3-68—Voucher of Indian Overseas Bank, Mahim for Rs. 39·72.

M-26/30-3-68—Voucher of Indian Overseas Bank, Mahim for Rs. 39·72.

M-27/30-3-68—Voucher of Indian Overseas Bank, Mahim for Rs. 39·72.

M-28/30-3-68—Voucher of Indian Overseas Bank Mahim for Rs. 79·48.

M-29/30-3-68—Voucher of Indian Overseas Bank, Mahim for Rs. 345/.

M-30/3-11-69—Voucher of Indian Overseas Bank, Mahim for Rs. 370/-.

M-31/3-11-69—Voucher of Indian Overseas Bank, Mahim for Rs. 420/-.

M-32/19-11-69—Voucher of Indian Overseas Bank, Mahim for Rs. 42/-.

M-33/24-11-69—Voucher of Indian Overseas Bank, Mahim for Rs. 42/-

M-34/2-2-70—Voucher of Indian Overseas Bank, Mahim for Rs. 420/-

M-35/12-2-70—Voucher of Indian Overseas Bank, Mahim for Rs. 21/-

M-36/9-2-70—Voucher of Indian Overseas Bank, Mahim for Rs. 21./-

M-37/27-6-68—Award of the Central Government Industrial-*cum*-Labour Court, Jalalpur in case Ref. No. C.C.II/LC(R)(5)/1968 (copy).

M-38/22-10-70—Award of the Industrial Tribunal, Chennai in I.D. No. 9/70 (copy).

M-39/24-6-70—copy of Ex. W-1.

M-40/10-11-66—Letter from the Assistant General Manager, Indian Overseas Bank, Madras to Regional Manager, Bombay regarding maintenance charges for Indian Overseas Bank Appartments at Bandra.

M-41/10-11-66—Book containing stamped receipts signed by workers.

M-41(a)/10-11-66—Page showing the amount paid to Gurkhas etc. for the month of November, 1970.
M-41(b)10-11-66—Page showing the amount paid to Gurkhas etc. for the month of December, 1970.
M-41(c) 10-11-66—Page showing the amount paid to Gurkhas etc. for the month of January, 1971.
M-41(d)/10-11-66—Page showing the amount paid to Gurkhas etc. for the month of February, 1961.
M-41(e)/10-11-66—Page showing the amount paid to Gurkhas etc. for the month of March, 1971.
M41(f)/10-11-66—Page showing the amount paid to Gurkhas etc. for the month of April, 1971.
M 41(g)/10-11-66—Page showing the amount paid to Gurkhas etc. for the month of May, 1971.
M-41(h)/10-11-66—Page showing the amount paid to Gurkhas etc. for the month of June, 1971.
M-41(i) 10-11-66—Page showing the amount paid to Gurkhas etc. for the month of July, 1971.
M-41(j)/10-11-66—Page showing the amount paid to Gurkhas etc. for the month of August, 1971.
M-41(k)/10-11-66—Page showing the amount paid to Gurkhas etc. for the month of September, 1971.
M-41(l)/10-11-66—Page showing the amount paid to Gurkhas etc. for the month of October, 1971.

Court Exhibit

C-1/25-8-71—Affidavit of one Thiru A.R. Lakshmanan filed with App. No. 179/71 in I.D. 4/71.

(Sd.) K. SEETHARAMA RAO,
Industrial Tribunal.

Note :—The parties are directed to take return of their document documents within six months from the date of the award.

[No. 23/90/70/LRIII.]

S. S. SAHASRANAMAN, Under Secy

(Department of Labour and Employment)

New Delhi, the 10th January 1972

S.O. 319:—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government here by appoints the 16th day of January, 1972, as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI [except sub-section (1) of section 76 and sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Mysore, namely :—

S. No.	District	Taluk	Hubli	Municipal limits if any	Name of the village
1.	Dharwar	Dharwar	Dharwar Revenue Circle.	Hubli—Dharwar Municipal Corporation limits.	Dharwar
2.	Dharwar	Dharwar	—do—	—do—	Sattur
3.	Dharwar	Dharwar	—do—	—do—	Attikolla
4.	Dharwar	Dharwar	—do—	—do—	Saptapur
5.	Dharwar	Dharwar	—do—	—do—	Rayapur
6.	Dharwar	Dharwar	—do—	—do—	Hiremalligwad
7.	Dharwar	Dharwar	Alnawar Revenue Circle	—do—	Kelgeri

[No. F. S-38013(8)/71-HI.]

श्रम और पुनर्वास मंत्रालय

(श्रम और रोजगार विभाग)

नई दिल्ली, 10 जनवरी, 1972

का० आ० 319.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा 16 जनवरी, 1972 को उस तारीख के रूप में नियत करती है जिसकी उक्त अधिनियम के अध्याय 4 (धारा 44 और 45) के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं) और अध्याय 5 और 6 [धारा 76 की उपधारा (1) और धारा 77, 78, 79, और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबन्ध मैसूर राज्य के निम्नलिखित भागों में प्रवृत्त होंगे, अर्थात् :—

क्रमांक	जिला	तालुक	हुब्ली	नगरपालिका की सीमाएं, यदि कोई हों	गांव का नाम
(1)	(2)	(3)	(4)	(5)	(6)
1.	धारवाड़	धारवाड़	धारवाड़ राजस्व क्षेत्र	हुबली–धारवाड़, नगरनिगम की सीमाएं	धारवाड़

(1)	(2)	(3)	(4)	(5)	(6)
2.	धारवाड़	धारवाड़	धारवाड़ राजस्व क्षेत्र	हुबली-धारवाड़ नगर-निगम की सीमाएं।	सतुर
3.	धारवाड़	धारवाड़	यथोक्त	यथोक्त	अट्टिकोला
4.	धारवाड़	धारवाड़	यथोक्त	यथोक्त	सन्नापुर
5.	धारवाड़	धारवाड़	यथोक्त	यथोक्त	रायापुर
6.	धारवाड़	धारवाड़	यथोक्त	यथोक्त	हिरेमालिनगवाद
7.	धारवाड़	धारवाड़	अलनावर राजस्व क्षेत्र	यथोक्त	कैलगेरी

[सं० फा० ए०-38013(8)/71-एच०आई०]

S.O. 320.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 16th day of January, 1972, as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI [except sub-section (1) of section 76 and sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala namely:—

1. The areas within the Municipal limits of Kayamkulam and the revenue villages of Pathiyoor and Pudupally in Karthikapally Taluk; and
2. The areas within the revenue villages of Palamel, Chunakkara, Mavelikara, Kannamangalam, Bharanikavu, Vallikunnam, Thamarakulam and Noornad in Mavelikkara Taluk in Alleppey District.

[No. F. 604(18)/70-HI.]

DALJIT SINGH, *Under Secy.*

का० आ० 320.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा 16 जनवरी, 1972 को उस तारीख के रूप में नियत करती है जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और 5 और 6 [धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

1. कायामकुलम नगरपालिका सीमाओं के भीतर का क्षेत्र और कारथिकापल्ली तालुक में पाथीयूर और पुडुपल्ली के राजस्व गांवों ; और
2. एल्लेपी जिलों में मावेलिक्कारा तालुक में, पालामैल, चुनाक्कारा, मावेलिकारा, काण्णामंगलम, भारानिकावु, वाल्लीकुन्नम, थामारकुलम और नूरनाद के राजस्व गांवों की सीमाओं के भीतर का क्षेत्र ।

[संख्या फाइल 604(18)/70-एच०आई०]

दलजीत सिंह, अवर सचिव ।

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